



# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
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सं. 26]

नई दिल्ली, शनिवार, जून 29, 1996/आषाढ़ 8, 1918

No. 26]

NEW DELHI, SATURDAY, JUNE 29, 1996/ASADHA 8, 1918

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(other than the Ministry of Defence)

विधि, न्याय और कम्पनी कार्य मंत्रालय

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(विधि कार्य विभाग)

(Department of Legal Affairs)

(न्यायिक अनुभाग)

(Judicial Section)

सूचना

NOTICE

नई दिल्ली, 6 जून, 1996

New Delhi, the 6th June, 1996

का०आ० 1863.—नोटरीज नियम, 1956 के नियम 6 के  
अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि  
श्री विजय कुमार शर्मा, एडवोकेट ने उक्त प्राधिकारी को उक्त  
नियम के नियम 4 के अधीन एक आदेश देकर इस बात के लिए दिया  
है कि उसे फिरोजपुर जिला (पंजाब) में व्यवसाय करने के लिए  
नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस  
सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप से  
मेरे पास भेजा जाए।

S.O. 1863.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Vijay Kumar Sharma, Advocate for appointment as a Notary to practise in Ferozepur Distt. (Punjab).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[सं. 5(122)/96-न्यायिक]

[No. F. 5(122)/96-Judl.]

पी.सी. कन्नन, सक्षम प्राधिकारी

P. C. KANNAN, Competent Authority

## सूचना

नई दिल्ली, 6 जून, 1996

का.आ. 1864.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि श्री सुधीर कुमार, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे पंचकुला, जिला पंचकुला (हरियाणा) में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(126)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

## NOTICE

New Delhi, the 6th June, 1996

S.O. 1864.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Sh. Sudhir Kumar, Advocate for appointment as a Notary to practise in Panchkula, Distt. Panchkula (Haryana).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(126)/96-Judl.]

P. C. KANNAN, Competent Authority

## सूचना

नई दिल्ली, 10 जून, 1996

का.आ. 1865.—नोटरीज नियम, 1956 के नियम 6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी जाती है कि सुधी उपा भटनागर, एडवोकेट ने उक्त प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक आवेदन इस बात के लिए दिया है कि उसे मौजपुर घोडा, राष्ट्रीय राजधानी दिल्ली में व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आक्षेप इस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(130)/96-न्यायिक]

पी.सी. कण्णन्, सक्षम प्राधिकारी

## NOTICE

New Delhi, the 10th June, 1996

S.O. 1865.—Notice is hereby given by the Competent Authority in pursuance of Rule 6 of the Notaries Act, 1956 that application has been made to the said Authority, under Rule 4 of the said Rules, by Ms. Usha Bhatnagar, Advocate for appointment as a Notary to practise in Maujpur Ghonda N.C.T. of Delhi.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this notice.

[No. F. 5(130)/96-Judl.]

P. C. KANNAN, Competent Authority

## गृह मंत्रालय

(पुनर्वास प्रभाग)

नई दिल्ली, 30 मई, 1996

का.आ. 1866.—निष्कांत हित (पृथक्करण) अधिनियम, 1951 (1951 का 64) की धारा 13 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद् द्वारा, श्री एस.एस. बल, अपर जिला न्यायाधीश, तीस हजारी, दिल्ली को तत्काल प्रभाव से राष्ट्रीय राजधानी क्षेत्र, दिल्ली के अपील अधिकारी के रूप में नियुक्त करती है।

2. इसके द्वारा भारत सरकार, गृह मंत्रालय (पुनर्वास प्रभाग) की दिनांक 29-09-1994 की अधिसूचना संख्या 1(2)/विशेष सैल/92-अंदोबस्त(क) का अधिक्रमण किया जाता है।

[संख्या 1(2)/विशेष सैल/92-अंदोबस्त]

आर. एस. आहुजा, अपर सचिव

## MINISTRY OF HOME AFFAIRS

(Rehabilitation Division)

New Delhi, the 30th May, 1996

S.O. 1866.—In exercise of the powers conferred by Sub-section (1) of Section 13 of the Evacuee Interest (Separation) Act, 1951 (LXIV of 1951), the Central Government hereby appoints Shri S. S. Bal, Additional District Judge, Tis Hazari, Delhi as Appellate Officer for the National Capital Territory of Delhi with immediate effect.

2. This supersedes Government of India, Ministry of Home Affairs, (Rehabilitation Division's Notification No. 1(2)/Spl. Cell/92-Settlement(A) dated 29-9-1994.

[No. 1(2)/Spl. Cell/92-Settlement]

R. S. AHUJA, Under Secy.

## वित्त मंत्रालय

(आर्थिक कार्य विभाग)

(वैकिंग प्रभाग)

नई दिल्ली, 12 जून, 1996

का.आ. 1867.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 की धारा 7 के साथ पठित धारा 6 की उपधारा (1) के खण्ड (ग) के अनुसरण में, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा भारतीय स्टेट बैंक के अध्यक्ष श्री पी.जी. ककोडकर को 12 जून, 1996 से और 31 मार्च, 1997 तक के लिए राष्ट्रीय कृषि और ग्रामीण बैंक के निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 7/7/95-बी.ओ.-1]

के.के. मंगल, अपर सचिव

**MINISTRY OF FINANCE**  
(Department of Economic Affairs)  
(Banking Division)  
New Delhi, 12th June, 1996

S.O. 1867.—In pursuance of clause (c) of sub-section (1) of section 6, read with section 7 of the National Bank for Agriculture and Rural Development Act, 1981 the Central Government, in consultation with Reserve Bank of India, hereby appoints Shri P. G. Kakodkar, Chairman, State Bank of India, to be a Director of the National Bank for Agriculture and Rural Development with effect from 12th June, 1996 and upto 31st March, 1997.

[F. No. 7/795-B.O.I.]

K. K. MANGAL, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय  
नई दिल्ली, 7 जून, 1996

का.स्रा. 1868 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीजीएस-IV (दाहेजवीपी) से दहेज जीजीएस तक पेट्रोलियम के परिवहन के लिए पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों की बिछाने के प्रयोजन के लिए एतदुपबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइपलाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिवृत्तः यह भी कथन करेगा कि क्या यह वास्तविक है कि उसकी मुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी.जी.एस IV से दहेज जी.जी.एस. तक पाइप लाइन बिछाने के लिए

| राज्य : गुजरात; | जिला : भरुच; | तालुका : वागरा |         |    |
|-----------------|--------------|----------------|---------|----|
| गांव            | ब्लॉक नं.    | हेक्टेयर आरे.  | सेंटियर |    |
| 1               | 2            | 3              | 4       | 5  |
| नरणावी          | 7            | 0              | 02      | 85 |
|                 | 6            | 0              | 30      | 00 |
|                 | 232          | 0              | 13      | 20 |
|                 | 233          | 0              | 11      | 70 |
|                 | 234          | 0              | 01      | 00 |
|                 | 235          | 0              | 19      | 20 |
|                 | 236/बी       | 0              | 15      | 75 |
|                 | 240          | 0              | 11      | 25 |
|                 | 239          | 0              | 13      | 50 |
|                 | 207          | 0              | 09      | 00 |
|                 | 208          | 0              | 13      | 20 |
|                 | 220          | 0              | 16      | 80 |
|                 | 196          | 0              | 08      | 70 |
|                 | 194          | 0              | 21      | 00 |

| 1 | 2           | 3 | 4  | 5  |
|---|-------------|---|----|----|
|   | 193         | 0 | 10 | 20 |
|   | 189/ए       | 0 | 07 | 80 |
|   | 190         | 0 | 19 | 20 |
|   | 183         | 0 | 27 | 60 |
|   | 182         | 0 | 03 | 00 |
|   | कार्ट ट्रैक | 0 | 01 | 80 |

[सं. ओ- 12016/76/96-ओ एन जी-डी-IV]

एम. माटिन, डैस्क अधिकारी

**MINISTRY OF PETROLEUM & NATURAL GAS**  
New Delhi, the 7 June, 1996

S. O. 1868 :— WHEREAS it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS-IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed here to :-

Now Therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the petroleum and Mineral Pipelines (Acquisition Of Right Of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided That any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd, Construction & Maintenance Division, Makarpura Road, Vadodra-390 009.

And every person making such an objections shall also state specifically whether he wished to be heard in person or by legal Practitioner.

**SCHEDULE**

**PIPELINE FROM GGS IV TO DAHEJ GGS.**  
**STATE : GUJARAT DISTRICT: BHARUCH TALUKA:**  
**VAGRA**

| Village | Block No. | Hectare Are | Centiare |    |
|---------|-----------|-------------|----------|----|
| 1       | 2         | 3           | 4        | 5  |
| NARNAVI | 7         | 0           | 02       | 85 |
|         | 6         | 0           | 30       | 00 |
|         | 232       | 0           | 13       | 20 |
|         | 233       | 0           | 11       | 70 |
|         | 234       | 0           | 01       | 00 |
|         | 235       | 0           | 19       | 20 |
|         | 236/B     | 0           | 15       | 75 |
|         | 240       | 0           | 11       | 25 |
|         | 239       | 0           | 13       | 50 |
|         | 207       | 0           | 09       | 00 |
|         | 208       | 0           | 13       | 20 |
|         | 220       | 0           | 16       | 80 |
|         | 196       | 0           | 08       | 70 |
|         | 194       | 0           | 21       | 00 |

| 1 | 2          | 3 | 4  | 5  |
|---|------------|---|----|----|
|   | 193        | 0 | 10 | 20 |
|   | 189/A      | 0 | 07 | 80 |
|   | 190        | 0 | 19 | 20 |
|   | 183        | 0 | 27 | 60 |
|   | 182        | 0 | 03 | 00 |
|   | Cart track | 0 | 01 | 80 |

[ No. O-12066/78/96—ONG, D-IV]

M. Martin, Desk Officer

नई दिल्ली, 7 जून, 1996

का.भा. सं. 1869.—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी जी एस-IV (ग्राईबीपी) से दहेज जी जी एस तक पेट्रोलियम के परिवहन के लिए पाइपलाइन आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी ज़ाहनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना आशय एतद्वारा घोषित किया है।

वर्णित कि उस भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति बिबिधपद्धतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जी.जी.एस. IV से दहेज जी.जी.एस. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भरुच तालुका : वाग्रा

| गांव      | ब्लॉक नं. | हेक्टेयर | आर. | सेंटीयर |
|-----------|-----------|----------|-----|---------|
| पनीयाद्रा | 356       | 0        | 18  | 75      |
|           | 363       | 0        | 03  | 30      |
|           | 362       | 0        | 07  | 65      |
|           | 366       | 0        | 05  | 25      |
|           | 354       | 0        | 02  | 00      |
|           | 355       | 0        | 16  | 20      |
|           | 359       | 0        | 05  | 40      |
|           | 365       | 0        | 02  | 00      |

[सं. ओ-12016/77/96-आ.एन.जी. जी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7 June, 1996

S.O 1869. -- Whereas it appears to the Central Government it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS, in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto

Now Therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962) the Central Government hereby declares its intention to acquire the right of user therein:

Provided That Any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390 009.

And every person making such an objections shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GGS IV TO DAHEJ GGS.

STATE : GUJARAT DISTRICT : BHARUCH TALUKA : VAGRA

| Village   | Block No. | Hectare | Are | Centiare |
|-----------|-----------|---------|-----|----------|
| Paniyadra | 356       | 0       | 18  | 75       |
|           | 363       | 0       | 03  | 30       |
|           | 362       | 0       | 07  | 65       |
|           | 366       | 0       | 05  | 25       |
|           | 354       | 0       | 02  | 00       |
|           | 355       | 0       | 16  | 20       |
|           | 359       | 0       | 05  | 40       |
|           | 365       | 0       | 02  | 00       |

[No. O-12016/77/96—ONG-D IV]

M. Martin, Desk Officer

नई दिल्ली, 7 जून, 1996

का.भा. 1870.—यह केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी.जी.एस.-IV (ग्राई बीपी) से दहेज जीजीएस तक पेट्रोलियम के परिवहन के लिए पाइपलाइन आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए :

और अतः यह प्रतीत होता है कि ऐसी ज़ाहनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार प्रजित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार प्रजित करने का अपना आशय एतद्वारा घोषित किया है।

वशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप-सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा ;

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत ।

## अनुसूची

जी.जी.एम.-IV से दहेज जी.जी.एम. तक पाइपलाइन बिछाने के लिए  
राज्य : गुजरात जिला : भरुच तालुका : वाग्रा

| गांव    | इलाकत | हेक्टेयर | आर | सेंटीयर |
|---------|-------|----------|----|---------|
| गलेन्डा | 16    | 0        | 06 | 40      |
|         | 12    | 0        | 03 | 00      |
|         | 15    | 0        | 23 | 70      |
|         | 13    | 0        | 16 | 80      |
|         | 54    | 0        | 06 | 00      |
|         | 43    | 0        | 41 | 70      |
|         | 44    | 0        | 18 | 60      |
|         | 45    | 0        | 14 | 00      |
|         | 46    | 0        | 06 | 00      |
|         | 88    | 0        | 35 | 00      |
|         | 81    | 0        | 32 | 40      |
|         | 85    | 0        | 12 | 00      |
|         | 125   | 0        | 22 | 80      |
|         | 126   | 0        | 18 | 00      |

[सं. ओ-12016/78/96-ओ.एस.जी.सी.-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O.-1870.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GGS IV TO DAHEJ GGS

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Block No. | Hectare | Are | Centiare |
|---------|-----------|---------|-----|----------|
| 1       | 2         | 3       | 4   | 5        |
| Galenda | 16        | 0       | 06  | 40       |
|         | 12        | 0       | 03  | 00       |
|         | 15        | 0       | 23  | 70       |
|         | 13        | 0       | 16  | 80       |
|         | 54        | 0       | 06  | 00       |
|         | 43        | 0       | 41  | 70       |
|         | 44        | 0       | 18  | 60       |
|         | 45        | 0       | 14  | 00       |
|         | 46        | 0       | 06  | 00       |
|         | 88        | 0       | 35  | 00       |
|         | 84        | 0       | 32  | 40       |
|         | 85        | 0       | 12  | 00       |
|         | 125       | 0       | 22  | 80       |
|         | 126       | 0       | 18  | 00       |

[No. O-12016/78/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1871.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोक-हित में यह आवश्यक है कि गुजरात राज्य में जी.जी.एम.-IV (आईवीपी) से दहेज जीजीएम तक पेट्रोलियम के परिवहन के लिए पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए ;

और अतः यह प्रतीत होता है कि ऐसी ज़ाहनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है ;

वशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप-सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा ;

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत ।

## अनुसूची

जी.जी.एस.-IV से वहेज जी.जी.एस. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात

जिला : भरुच

तालुका : वागरा

## SCHEDULE

## PIPELINE FROM GGS IV TO DAHEJ GGS

State : Gujarat District : Bharuch Taluka : Vagra

| गांव    | ब्लॉक नं. | हेक्टेयर | घारे. | सेंटीयर |
|---------|-----------|----------|-------|---------|
| जनीआदरा | 179       | 0        | 23    | 85      |
|         | 180       | 0        | 15    | 00      |
| काटेदूक | 0         | 01       | 80    |         |
|         | 186       | 0        | 06    | 30      |
|         | 187       | 0        | 07    | 60      |
|         | 188       | 0        | 03    | 00      |
| काटेदूक | 0         | 04       | 20    |         |
|         | 189       | 0        | 16    | 20      |
|         | 190       | 0        | 13    | 20      |
|         | 206       | 0        | 08    | 80      |
|         | 199       | 0        | 30    | 00      |
|         | 200       | 0        | 24    | 00      |
|         | 196       | 0        | 08    | 40      |
|         | 238       | 0        | 15    | 60      |
|         | 241       | 0        | 32    | 40      |
|         | 240       | 0        | 04    | 25      |
|         | 242       | 0        | 15    | 60      |
|         | 247       | 0        | 08    | 40      |
|         | 249       | 0        | 08    | 00      |
|         | 251       | 0        | 24    | 60      |
|         | 250       | 0        | 07    | 80      |

| Village   | Block No.  | Hectare | Acre | Centiare |
|-----------|------------|---------|------|----------|
| 1         | 2          | 3       | 4    | 5        |
| Janiyadra | 179        | 0       | 23   | 85       |
|           | 180        | 0       | 15   | 00       |
|           | Cart track | 0       | 01   | 80       |
|           | 186        | 0       | 06   | 30       |
|           | 187        | 0       | 07   | 60       |
|           | 188        | 0       | 03   | 00       |
|           | Cart track | 0       | 04   | 20       |
|           | 189        | 0       | 16   | 20       |
|           | 190        | 0       | 13   | 20       |
|           | 206        | 0       | 08   | 80       |
|           | 199        | 0       | 30   | 00       |
|           | 200        | 0       | 24   | 00       |
|           | 196        | 0       | 03   | 40       |
|           | 208        | 0       | 15   | 60       |
|           | 241        | 0       | 32   | 40       |
|           | 240        | 0       | 04   | 25       |
|           | 242        | 0       | 15   | 60       |
|           | 247        | 0       | 08   | 40       |
|           | 249        | 0       | 08   | 00       |
|           | 251        | 0       | 24   | 60       |
|           | 250        | 0       | 07   | 80       |

[No. O-12016/79/76-ONG. GD-IV]

M. MARTIN, Desk Officer

[सं. ओ-12016/79/96-ओ एन जी.डी-IV]

एम. मार्टिन, डेस्क अधिकारी

नई दिल्ली, 7 जून, 1996

New Delhi, the 7th June, 1996

S.O. 1871.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

का.आ. 1872.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीजीएम-IV (ग्राईवीपी) से वहेज जीजी एस तक पेट्रोलियम के परिवहन के लिए पाइप लाइन आयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उक्त उपयोग का अधिकार अर्जित करने का अपना आणख्य एतद्वारा घोषित किया है।

वर्षते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप समस्त प्राधिकारी, आयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदरा-9 को हम अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सूचनाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

| अनुसूची   |             |     |    |          |
|---|-------------|-----|----|----------|
| जी.जी.एस. IV से वहेज जी.जी.एस. तक पाइप लाईन बिछाने के लिए |             |     |    |          |
| राज्य : गुजरात; जिला : भरुच; तालुका : वागरा               |             |     |    |          |
| गांव  | ब्लाक नं.   | हे० | आर | सेन्टीआर |
| गम्भोई  | 164         | 0   | 04 | 00       |
|   | 163         | 0   | 62 | 70       |
|   | 149/ए       | 0   | 02 | 40       |
|   | कार्ट ट्रैक | 0   | 06 | 00       |
|   | 161         | 0   | 05 | 60       |
|   | 151         | 0   | 30 | 00       |
|   | 155         | 0   | 12 | 00       |
|   | 152         | 0   | 16 | 20       |
|   | कार्ट ट्रैक | 0   | 04 | 20       |
|   | 132         | 0   | 30 | 20       |
|   | कार्ट ट्रैक | 0   | 06 | 00       |
|   | 117         | 0   | 16 | 80       |
|   | 119         | 0   | 37 | 20       |
|   | 113         | 0   | 03 | 00       |

[सं. ओ-12016/80/96-प्रोएनजीबी-IV]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1872.—Whereas it appears to the Central Government that it is necessary in the public interest that for transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GGS IV TO DAHEJ GGS

State: Gujarat District : Bharuch Taluka : Vagra

| Village  | Block No. | Hectare | Arc | Centiare |
|----------|-----------|---------|-----|----------|
| 1        | 2         | 3       | 4   | 5        |
| SAMBHETI | 164       | 0       | 04  | 00       |
|          | 163       | 0       | 62  | 70       |

| 1 | 2          | 3 | 4  | 5  |
|---|------------|---|----|----|
|   | 149/A      | 0 | 02 | 40 |
|   | Cart track | 0 | 06 | 00 |
|   | 161        | 0 | 05 | 60 |
|   | 151        | 0 | 30 | 00 |
|   | 155        | 0 | 12 | 00 |
|   | 152        | 0 | 16 | 20 |
|   | Cart track | 0 | 04 | 20 |
|   | 132        | 0 | 30 | 20 |
|   | Cart track | 0 | 06 | 00 |
|   | 117        | 0 | 16 | 80 |
|   | 119        | 0 | 37 | 20 |
|   | 113        | 0 | 03 | 00 |

[No. O-12016/80/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.प्रा. 1873:— यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी जी एस IV (ग्राह जी पी) से वहेज जी जी एस तक पेट्रोलियम के परिवहन के लिये पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और वेदभास प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चयः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी गुंतवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी.जी.एस. IV से वहेज जी.जी.एस. तक पाइप लाईन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच तालुका : वागरा

| गांव    | ब्लाक नं.   | हेक्टेयर | आर. | सेन्टीयर |
|---------|-------------|----------|-----|----------|
| सामतपुर | 48          | 0        | 07  | 38       |
|         | 41          | 0        | 21  | 84       |
|         | 42          | 0        | 26  | 00       |
|         | कार्ट ट्रैक | 0        | 02  | 60       |
|         | 77          | 0        | 07  | 28       |
|         | 78          | 0        | 16  | 64       |
|         | 79          | 0        | 07  | 28       |
|         | 85          | 0        | 20  | 80       |

| 1 | 2  | 3 | 4  | 5  |
|---|----|---|----|----|
|   | 74 | 0 | 10 | 40 |
|   | 77 | 0 | 28 | 08 |
|   | 86 | 0 | 02 | 25 |

[सं. ओ-12016/81/96-ओ एन जी डी-IV]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1873.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GGS IV TO DAHEJ GGS.

State : Gujarat District : Bharuch Taluka : Vagra

| Village  | Block No.  | Hectare | Acre | Centiare |
|----------|------------|---------|------|----------|
| 1        | 2          | 3       | 4    | 5        |
| Samatpur | 48         | 0       | 07   | 38       |
|          | 41         | 0       | 21   | 84       |
|          | 42         | 0       | 26   | 00       |
|          | Cart track | 0       | 02   | 60       |
|          | 77         | 0       | 07   | 28       |
|          | 78         | 0       | 16   | 64       |
|          | 79         | 0       | 07   | 28       |
|          | 85         | 0       | 20   | 80       |
|          | 74         | 0       | 10   | 40       |
|          | 87         | 0       | 28   | 08       |
|          | 86         | 0       | 02   | 25       |

[No. O-12016/81/96-ONG. D-IV]

M. MARTIN Desk Officer

नई दिल्ली, 7 जून, 1996

का.भा. 1874.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी जी एस IV (भाउ बी पी) से दहेज जी जी एस तक पेट्रोलियम के परिवहन के लिये पाइप लाइन आयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइन को बिछाने के प्रयोजन के लिए एलएनजी अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एलएनजी द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशय सक्षम प्राधिकारी, आयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा, रोड, बडौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी.जी.एम. IV से दहेज जी जी एस तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भरुच तालुका : वाग्रा

| गांव    | ब्लाक नं. | हेक्टेयर | आरे. | सेन्टीयर |
|---------|-----------|----------|------|----------|
| कोलीयाद | 124       | 0        | 10   | 80       |
|         | 125       | 0        | 18   | 00       |
|         | 126       | 0        | 10   | 80       |
|         | 130       | 0        | 03   | 00       |
|         | 131       | 0        | 11   | 40       |
|         | 133       | 0        | 07   | 80       |
|         | 134       | 0        | 03   | 00       |
|         | 135       | 0        | 15   | 00       |
|         | 143/बी    | 0        | 18   | 00       |
|         | 136/बी    | 0        | 15   | 00       |
|         | 138       | 0        | 18   | 00       |
|         | 185       | 0        | 32   | 40       |
|         | 184       | 0        | 01   | 20       |
|         | 186       | 0        | 03   | 60       |
|         | 183/ए     | 0        | 33   | 60       |
|         | 183/बी    | 0        | 16   | 80       |
|         | 132       | 0        | 01   | 98       |

[सं. ओ-12016/82/96-ओ एन जी डी-IV]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1974.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government

hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

#### SCHEDULE

##### PIPELINE FROM GGS IV TO DAHEJ GGS.

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Block No. | Hectare | Are | Centiare |
|---------|-----------|---------|-----|----------|
| 1       | 2         | 3       | 4   | 5        |
| Kolhyad | 124       | 0       | 10  | 80       |
|         | 125       | 0       | 18  | 00       |
|         | 126       | 0       | 10  | 80       |
|         | 130       | 0       | 03  | 00       |
|         | 131       | 0       | 11  | 40       |
|         | 133       | 0       | 07  | 80       |
|         | 134       | 0       | 03  | 00       |
|         | 135       | 0       | 15  | 00       |
|         | 143/B     | 0       | 18  | 00       |
|         | 136/B     | 0       | 15  | 00       |
|         | 138       | 0       | 18  | 00       |
|         | 185       | 0       | 32  | 40       |
|         | 184       | 0       | 01  | 20       |
|         | 186       | 0       | 03  | 60       |
|         | 183/A     | 0       | 33  | 60       |
|         | 183/B     | 0       | 16  | 80       |
|         | 132       | 0       | 01  | 95       |

[No. O-12016/82/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.प्रा.— 1875 यत्: केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी जी एम 4 (ग्राई जी पी) से दाहेज जी जी एस तक पेट्रोलियम के परिवहन के लिए पाइपलाइन प्रॉयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्वाक्य अनुसूची में अंकित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

अतः कि उक्त भूमि में हितवादी कोई व्यक्ति उस भूमि के मालिक पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, प्रॉयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बरौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

1475 GI/96—2

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

#### अनुसूची

जी. जी. एम. IV से दाहेज जी. जी. एम. तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भरुच तालुका : वाग्रा

| गांव     | ब्लॉक नं. | हेक्टेयर | घर, | सेन्टीयर |
|----------|-----------|----------|-----|----------|
| बर्हीयाद | 460       | 0        | 03  | 60       |
|          | 455       | 0        | 10  | 80       |
|          | 454       | 0        | 18  | 00       |
|          | 449       | 0        | 04  | 20       |
|          | 450       | 0        | 33  | 20       |
|          | 441       | 0        | 12  | 00       |
|          | 442       | 0        | 10  | 80       |
|          | 438       | 0        | 26  | 40       |
|          | 436       | 0        | 03  | 60       |
|          | 437       | 0        | 10  | 80       |
|          | 440       | 0        | 03  | 45       |
|          | 456       | 0        | 01  | 00       |

[सं. ओ.-12016/83/96-ओ एन. जी. सी.-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1875.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GGS IV (IVP) to Dahej GGS in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

#### SCHEDULE

##### PIPELINE FROM GGS IV TO DAHEJ GGS.

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Block No. | Hectare | Are | Centiare |
|---------|-----------|---------|-----|----------|
| 1       | 2         | 3       | 4   | 5        |
| Rahiyad | 460       | 0       | 03  | 60       |
|         | 455       | 0       | 10  | 80       |
|         | 454       | 0       | 18  | 00       |

| 1 | 2   | 3 | 4  | 5  |
|---|-----|---|----|----|
|   | 449 | 0 | 04 | 20 |
|   | 450 | 0 | 13 | 20 |
|   | 441 | 0 | 12 | 00 |
|   | 442 | 0 | 10 | 80 |
|   | 438 | 0 | 26 | 40 |
|   | 436 | 0 | 03 | 60 |
|   | 437 | 0 | 10 | 80 |
|   | 440 | 0 | 03 | 45 |
|   | 456 | 0 | 01 | 00 |

[No. O-12016/83/96-ONG. D-I]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1876 :— यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन एल सी से जी एन वाई एक तक पेट्रोलियम के परिवहन के लिये पाइपलाइन आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जाना चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्द्वारा घोषित किया है :

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी के मार्फत।

## अनुसूची

जी एन एल सी से जी एन वाय एक तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : धारुच | तालुका : वाग्रा |     |          |
|----------------|--------------|-----------------|-----|----------|
| ग्राम          | सर्वे सं.    | हे.             | आर. | सेन्टीयर |
| लोल्वा         | 19           | 0               | 03  | 90       |
|                | 33           | 0               | 10  | 40       |
|                | 31           | 0               | 37  | 70       |
|                | 27/ए, बी     | 0               | 24  | 70       |
|                | 26           | 0               | 37  | 70       |
|                | 13           | 0               | 08  | 45       |
|                | कार्टट्रैक   | 0               | 02  | 60       |
|                | 55           | 0               | 13  | 00       |
|                | 128          | 0               | 14  | 30       |

[सं. ओ.-12016/84/96-ओ एन जी डी-IV]

एम मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1876.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLC to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

Pipeline from GNLC to GNYF

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Survey No. | Hectare | Are | Centiare |
|---------|------------|---------|-----|----------|
| Lolwa   | 19         | 0       | 03  | 90       |
|         | 33         | 0       | 10  | 40       |
|         | 31         | 0       | 37  | 70       |
|         | 27/A, B    | 0       | 24  | 70       |
|         | 26         | 0       | 37  | 70       |
|         | 13         | 0       | 08  | 45       |
|         | Cart track | 0       | 02  | 60       |
|         | 55         | 0       | 13  | 00       |
|         | 128        | 0       | 14  | 30       |

[No. O-12016/84/96-ONG-D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून 1996

का.आ. 1877 :— यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन एल सी से जी एन वाई एक तक पेट्रोलियम के परिवहन के लिये पाइपलाइन आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्द्वारा घोषित किया है :

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी, आयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी एन एल पी से जी एन गार्ड एक तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : भरुच | तालुका : वागरा |     |          |
|----------------|-------------|----------------|-----|----------|
| गांव           | सर्वे सं.   | हे.            | आर. | सेन्टीयर |
| रहियार         | 666         | 0              | 13  | 39       |
|                | काटेदेक     | 0              | 02  | 60       |
|                | 683         | 0              | 30  | 42       |
|                | 684         | 0              | 10  | 92       |
|                | 687         | 0              | 07  | 80       |
|                | 698         | 0              | 06  | 37       |
|                | 690         | 0              | 07  | 28       |
|                | 695         | 0              | 26  | 92       |
|                | 639         | 0              | 09  | 10       |
|                | 640         | 0              | 14  | 95       |
|                | 635         | 0              | 01  | 04       |
|                | 636         | 0              | 01  | 56       |

[सं. ओ.-12016/85/96-ओ एन जी. ई.-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1977.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLP to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd, Construction & Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE GNLP TO GNYF

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Arc | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Rahiyad         | 666                | 0              | 13  | 39       |
|                 | Carerack           | 0              | 02  | 60       |

| 1       | 2   | 3 | 4  | 5  |
|---------|-----|---|----|----|
| Rahiyad | 683 | 0 | 30 | 42 |
|         | 684 | 0 | 10 | 92 |
|         | 687 | 0 | 07 | 80 |
|         | 698 | 0 | 06 | 37 |
|         | 690 | 0 | 07 | 28 |
|         | 695 | 0 | 26 | 92 |
|         | 639 | 0 | 09 | 10 |
|         | 640 | 0 | 14 | 95 |
|         | 635 | 0 | 01 | 04 |
|         | 636 | 0 | 01 | 56 |

[No O-12016/85-96-ONGD-IV]

M MARTIN : Desk Officer

नई दिल्ली, 7 जून, 1996

का.ग्रा. 1878 :-यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन एल पी से जी एन गार्ड एक तक पेट्रोलियम के परिवहन के लिये पाइपलाइन प्रायस एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी ज़ादनों की बिछाने के प्रयोजन के लिए एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने इसमें उपयोग का अधिकार अर्जित करने का अपना आणव्य एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा, रोड, बडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी मार्फत।

## अनुसूची

जी एन एल पी से जी एन गार्ड एक तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : भरुच | तालुका : वागरा |     |          |
|----------------|-------------|----------------|-----|----------|
| गांव           | सर्वे सं.   | हे.            | आर. | सेन्टीयर |
| जोखवा          | 350         | 0              | 03  | 25       |
|                | 348         | 0              | 02  | 60       |
|                | 351         | 0              | 14  | 95       |
|                | 346         | 0              | 09  | 20       |
|                | 345         | 0              | 05  | 85       |
|                | 353         | 0              | 17  | 55       |
|                | 354         | 0              | 05  | 20       |
|                | 9 ए.पी.सी   | 0              | 22  | 75       |
|                | 10          | 0              | 16  | 25       |
|                | 14          | 0              | 27  | 65       |
|                | 13          | 0              | 26  | 00       |
|                | काटेदेक     | 0              | 02  | 60       |
|                | 55          | 0              | 13  | 00       |
|                | 128         | 0              | 14  | 30       |

[सं. ओ.-12016/86/96-ओ एन जी. ई.-IV]

एम मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1878.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLK to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares it's intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLK TO GNYF

State : Gujarat District : Bharuch Taluka : Vagra

| Vlage | Survey No | Hectare | Acre | Centiare |
|-------|-----------|---------|------|----------|
| 1     | 2         | 3       | 4    | 5        |
| Jolwa | 350       | 0       | 03   | 25       |
|       | 348       | 0       | 02   | 60       |
|       | 351       | 0       | 14   | 95       |
|       | 346       | 0       | 09   | 20       |
|       | 345       | 0       | 05   | 85       |
|       | 353       | 0       | 17   | 55       |
|       | 354       | 0       | 05   | 20       |
|       | 9/A,B,C   | 0       | 22   | 75       |
|       | 10        | 0       | 16   | 25       |
|       | 14        | 0       | 27   | 65       |
|       | 13        | 0       | 26   | 00       |
|       | Canttrack | 0       | 02   | 60       |
|       | 55        | 0       | 13   | 00       |
|       | 128       | 0       | 14   | 30       |

[No. O-12016/86/96 -ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

क्र०आ० 1879 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलएन से जीएनवाईएफ तक पेट्रोलियम के परिवहन के लिये पाइपलाइन ड्रायल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपायदक अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अग्र पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि भूमि के नीचे पाइपलाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी एन एन एन से जी एन व्हाईएफ तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : भरुच | तालुका : वाग्रा  |
|----------------|-------------|------------------|
| शिव            | सर्वे सं.   | हे. आर. सेन्टीयर |
| जोलवा          | 19          | 0 04 00          |
|                | 20          | 0 27 80          |
|                | 22          | 0 22 00          |
|                | 23          | 0 50 00          |
|                | 14          | 0 11 00          |
|                | 25          | 0 22 00          |
|                | 26          | 0 25 00          |
|                | 13          | 0 12 00          |
|                | 85          | 0 60 00          |
|                | 128         | 0 30 00          |

[सं. आ.-12016/87/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1879.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLN to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares it's intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of the notification to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLC TO GNYF

| State : Gujarat | Distt: Bharuch | Taluka: Vagra |     |          |
|-----------------|----------------|---------------|-----|----------|
| Village         | Survey No.     | Hectare       | Are | Centiare |
| 1               | 2              | 3             | 4   | 5        |
| Jolwa           | 19             | 0             | 04  | 00       |
|                 | 20             | 0             | 27  | 80       |
|                 | 22             | 0             | 22  | 00       |
|                 | 23             | 0             | 50  | 00       |
|                 | 14             | 0             | 11  | 00       |
|                 | 25             | 0             | 22  | 00       |
|                 | 26             | 0             | 25  | 00       |
|                 | 13             | 0             | 12  | 00       |
|                 | Cart track     | 0             | 06  | 00       |
|                 | 55             | 0             | 60  | 00       |
|                 | 128            | 0             | 30  | 00       |

[No O-12016/87/96/ONGD-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

कांआ० 1880 :--यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जी एन एल सी से जी एन वाय एक तक पेट्रोलियम के परिवहन के लिये पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि एसी लाइनों को बिछाने के प्रयोजन के लिए एतदवपात्र अनुसूची में वर्णित भूमि में उपयोग का अधिकार अभिहित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वशर्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी एन एल सी से जी एन वाय एक तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात जिला : भारुच तालुका : वाग्रा

| गांव    | सर्वे सं. | हे. | आर. | सेन्टेयर |
|---------|-----------|-----|-----|----------|
| 1       | 2         | 3   | 4   | 5        |
| गजेन्डा | 165       | 0   | 01  | 56       |
|         | 164       | 0   | 20  | 93       |
|         | 163       | 0   | 24  | 57       |
|         | 161       | 0   | 25  | 48       |
|         | 160       | 0   | 03  | 77       |
|         | 158       | 0   | 24  | 57       |
|         | 198       | 0   | 33  | 80       |
|         | 200       | 0   | 18  | 20       |
|         | 206       | 0   | 04  | 55       |

[सं. आ०-12016/88/96-ओ एन जी डी-4]

एम मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1880.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLC to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLC TO GNYF

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Galenda         | 165                | 0              | 01  | 56       |
|                 | 164                | 0              | 20  | 93       |
|                 | 163                | 0              | 24  | 57       |
|                 | 161                | 0              | 25  | 48       |
|                 | 160                | 0              | 03  | 77       |
|                 | 158                | 0              | 24  | 57       |
|                 | 198                | 0              | 33  | 80       |
|                 | 200                | 0              | 18  | 20       |
|                 | 206                | 0              | 04  | 55       |

[No. O-12016/88/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1881:—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलओ से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि एसी लाइनों को को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवन्त कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिविष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से ही या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जी एन एल ओ से जी एन वाय एफ तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच तालुका : वाग्रा

गांव सर्वे में हे. अर. मेट्रिक

| 1          | 2   | 3 | 4  | 5  |
|------------|-----|---|----|----|
| राहियाद    | 241 | 0 | 07 | 80 |
|            | 237 | 0 | 07 | 80 |
| कार्टट्रैक |     | 0 | 02 | 60 |
|            | 250 | 0 | 00 | 22 |
|            | 252 | 0 | 12 | 35 |
|            | 253 | 0 | 05 | 20 |
|            | 254 | 0 | 01 | 95 |
|            | 256 | 0 | 21 | 45 |
|            | 258 | 0 | 04 | 55 |
|            | 271 | 0 | 13 | 65 |
|            | 270 | 0 | 05 | 85 |
| कार्टट्रैक |     | 0 | 01 | 95 |
|            | 317 | 0 | 03 | 25 |
|            | 318 | 0 | 09 | 10 |
|            | 319 | 0 | 04 | 55 |
|            | 321 | 0 | 10 | 40 |
|            | 339 | 0 | 05 | 20 |

| 1             | 2   | 3 | 4  | 5  |
|---------------|-----|---|----|----|
| राहियाद (जमी) | 351 | 0 | 13 | 00 |
|               | 350 | 0 | 10 | 40 |
|               | 349 | 0 | 07 | 15 |
|               | 348 | 0 | 01 | 95 |
|               | 347 | 0 | 07 | 15 |
|               | 346 | 0 | 09 | 10 |
|               | 344 | 0 | 00 | 66 |
|               | 345 | 0 | 15 | 60 |
|               | 609 | 0 | 32 | 50 |
|               | 612 | 0 | 09 | 10 |
|               | 616 | 0 | 13 | 65 |
|               | 620 | 0 | 08 | 45 |
|               | 619 | 0 | 04 | 55 |

[सं. ओ-12016/89/96-ओ एन जी डी-4]

एम. माटिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1881.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLO to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd, Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in person or by legal Practitioner,

## PIPELINE FROM GNLO TO GNYF

| State: Gujarat | Disirict : Bharuch | Taluka : Vagra |     |          |
|----------------|--------------------|----------------|-----|----------|
| Village        | Survey No.         | Hectare        | Are | Centiare |
| 1              | 2                  | 3              | 4   | 5        |
| Rahiyad        | 241                | 0              | 07  | 80       |
|                | 237                | 0              | 07  | 80       |
| Cartrack       |                    | 0              | 02  | 60       |
|                | 250                | 0              | 00  | 22       |
|                | 252                | 0              | 12  | 35       |
|                | 253                | 0              | 05  | 20       |
|                | 254                | 0              | 01  | 95       |
|                | 256                | 0              | 21  | 45       |
|                | 258                | 0              | 04  | 55       |
|                | 271                | 0              | 13  | 65       |
|                | 270                | 0              | 05  | 85       |
| Cart track     |                    | 0              | 01  | 95       |
|                | 317                | 0              | 03  | 25       |
|                | 318                | 0              | 09  | 10       |
|                | 319                | 0              | 04  | 55       |

| 1 | 2   | 3 | 4  | 5  |
|---|-----|---|----|----|
|   | 321 | 0 | 10 | 40 |
|   | 339 | 0 | 05 | 20 |
|   | 351 | 0 | 13 | 00 |
|   | 350 | 0 | 10 | 40 |
|   | 349 | 0 | 07 | 15 |
|   | 348 | 0 | 01 | 95 |
|   | 347 | 0 | 07 | 15 |
|   | 346 | 0 | 09 | 10 |
|   | 344 | 0 | 00 | 66 |
|   | 345 | 0 | 15 | 60 |
|   | 609 | 0 | 32 | 50 |
|   | 612 | 0 | 09 | 10 |
|   | 616 | 0 | 13 | 65 |
|   | 620 | 0 | 08 | 45 |
|   | 619 | 0 | 04 | 55 |

[No. O-12016/89/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का०आ० 1882 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलएम से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिए पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदपावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतदपावद्ध घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम अधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बडौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

ज. एन एल एम से ज. एन वाय एफ तक पाइप लाइन बिछाने के लिए

| राज्य : गुजरात | ज़िला : धरुच | तालुका : वाग्रा   |
|----------------|--------------|-------------------|
| गांव           | सर्वे सं.    | हे. आर. सेंटीमीटर |
| जोलवा          | 210          | 0 08 78           |
|                | कार्टट्रेक   | 0 00 78           |
|                | 159          | 0 11 83           |

| 1     | 2   | 3 | 4  | 5  |
|-------|-----|---|----|----|
| जोलवा | 151 | 0 | 14 | 82 |
|       | 152 | 0 | 02 | 08 |
|       | 155 | 0 | 27 | 56 |
|       | 125 | 0 | 27 | 56 |
|       | 128 | 0 | 09 | 88 |

[सं. आ०-12016/90/96-आ० एन जे डी-4]

एम मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1882.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLM to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd, Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLM TO GNYF:

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No          | Hectare        | Arc | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| JOLWA           | 210                | 0              | 08  | 78       |
|                 | Cart track         | 0              | 00  | 78       |
|                 | 159                | 0              | 11  | 83       |
|                 | 151                | 0              | 14  | 82       |
|                 | 152                | 0              | 02  | 08       |
|                 | 155                | 0              | 27  | 56       |
|                 | 125                | 0              | 27  | 56       |
|                 | 128                | 0              | 09  | 88       |

[No. O-12016/90/96-ONG.D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का०आ० 1883 :—यतः केन्द्रीय सरकार का यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलएम से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिए पाइपलाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनदपावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एनदद्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चिततः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी मुनबाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

#### अनुसूची

जो एन एन एन में जो एन बाय एक तक पाइपलाइन बिछाने के लिए।

राज्य : गुजरात जिला : भरुच तालुका : वागरा

| गांव       | सर्वे सं. | हे. | आर. | सेन्टीयर |
|------------|-----------|-----|-----|----------|
| 1          | 2         | 3   | 4   | 5        |
| राहियाद    | 120       | 0   | 03  | 90       |
|            | 243       | 0   | 09  | 62       |
|            | 244       | 0   | 05  | 85       |
|            | 246       | 0   | 14  | 69       |
|            | 247       | 0   | 04  | 94       |
|            | 251       | 0   | 14  | 95       |
|            | 258       | 0   | 31  | 20       |
|            | 272       | 0   | 00  | 30       |
|            | 271       | 0   | 14  | 30       |
|            | 270       | 0   | 03  | 90       |
| कार्टट्रेक | 0         | 01  | 30  |          |
| 317        | 0         | 04  | 55  |          |
| 318        | 0         | 08  | 45  |          |
| 319        | 0         | 02  | 60  |          |
| 321        | 0         | 10  | 40  |          |
| 339        | 0         | 05  | 20  |          |
| 351        | 0         | 10  | 40  |          |
| 350        | 0         | 09  | 75  |          |
| 349        | 0         | 08  | 45  |          |
| 348        | 0         | 01  | 50  |          |
| 347        | 0         | 06  | 50  |          |
| 346        | 0         | 07  | 80  |          |
| 344        | 0         | 01  | 50  |          |
| 345        | 0         | 16  | 50  |          |
| 609        | 0         | 43  | 00  |          |
| 612        | 0         | 12  | 00  |          |

| 1       | 2   | 3 | 4  | 5  |
|---------|-----|---|----|----|
| राहियाद | 616 | 0 | 0  | 00 |
|         | 620 | 0 | 13 | 00 |
|         | 619 | 0 | 08 | 00 |

[सं. प्रो -12016/91/96-अत एन. जो. सं.-IV]

एम. भाटिन, डैम्प अधिकारी

New Delhi, the 7th June, 1996

S.O. 1883.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLN to GNYF in Gujarat State pipeline should be laid by the Oil & Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto :—

Now therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil & Natural Gas Corporation Ltd. Construction & Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

#### SCHEDULE

##### PIPELINE FROM GNLN TO GNYF.

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Survey No. | Hectare | Are | Centiare |
|---------|------------|---------|-----|----------|
| 1       | 2          | 3       | 4   | 5        |
| RAHIYAD | 120        | 0       | 03  | 90       |
|         | 243        | 0       | 09  | 62       |
|         | 244        | 0       | 05  | 85       |
|         | 246        | 0       | 14  | 69       |
|         | 247        | 0       | 04  | 94       |
|         | 251        | 0       | 14  | 95       |
|         | 258        | 0       | 31  | 20       |
|         | 272        | 0       | 00  | 30       |
|         | 271        | 0       | 14  | 30       |
|         | 270        | 0       | 03  | 90       |
|         | Cart track | 0       | 01  | 30       |
|         | 317        | 0       | 04  | 55       |
|         | 318        | 0       | 08  | 45       |
|         | 319        | 0       | 02  | 60       |
|         | 321        | 0       | 10  | 40       |
|         | 339        | 0       | 05  | 20       |
|         | 351        | 0       | 10  | 40       |
|         | 350        | 0       | 09  | 75       |
|         | 349        | 0       | 08  | 45       |
|         | 348        | 0       | 01  | 50       |
|         | 347        | 0       | 06  | 50       |
|         | 346        | 0       | 07  | 80       |

| 1 | 2   | 3 | 4  | 5  |
|---|-----|---|----|----|
|   | 344 | 0 | 01 | 50 |
|   | 345 | 0 | 16 | 50 |
|   | 609 | 0 | 43 | 00 |
|   | 612 | 0 | 12 | 00 |
|   | 616 | 0 | 20 | 00 |
|   | 620 | 0 | 13 | 00 |
|   | 619 | 0 | 08 | 00 |

[No. O-12016/91/96-ONG, D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1884 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलजे से जीएनबायएफ तक पेट्रोलियम के परिवहन के लिये पाइपलाइन ऑयल एण्ड नेचुरल गैस कार्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अतुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उप धारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति उक्त भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप मसलम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कार्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी मुतबाई व्यक्तिगत रूप से हो या कि नि विधि व्यवसायी की नाकन।

## अतुसूची

जीएनएलजे से जीएनबायएफ तक पाइपलाइन बिछाने के लिए।

| राज्य :—गुजरात | जिला :—भरुच | तालुका :—वाग्रा |    |         |
|----------------|-------------|-----------------|----|---------|
| गांव           | सर्चें में. | हे.             | आर | सेन्टी. |
| जोलवा          | 17          | 0               | 08 | 45      |
|                | 18          | 0               | 11 | 05      |
|                | 20          | 0               | 03 | 90      |
|                | 22          | 0               | 14 | 95      |
|                | 23          | 0               | 32 | 50      |
|                | 14          | 0               | 06 | 50      |
|                | 25          | 0               | 14 | 95      |
|                | 26          | 0               | 16 | 25      |
|                | 13          | 0               | 08 | 45      |
| कार्टट्रैक     | 0           | 02              | 60 |         |
| 55             | 0           | 13              | 00 |         |
| 128            | 0           | 14              | 30 |         |

[सं. आ-12016/92/96-ओ एन जी. डी.-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1884.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNJ to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNJ TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Arc | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Jolwa           | 17                 | 0              | 08  | 45       |
|                 | 18                 | 0              | 11  | 05       |
|                 | 20                 | 0              | 03  | 90       |
|                 | 22                 | 0              | 14  | 95       |
|                 | 23                 | 0              | 32  | 50       |
|                 | 14                 | 0              | 06  | 50       |
|                 | 25                 | 0              | 14  | 95       |
|                 | 26                 | 0              | 16  | 25       |
|                 | 13                 | 0              | 08  | 45       |
|                 | Cart track         | 0              | 02  | 60       |
|                 | 55                 | 0              | 13  | 00       |
|                 | 128                | 0              | 14  | 30       |

[No. O-12016/92/96-ONG, D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1885 :—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलजे से जीएनबायएफ तक पेट्रोलियम के परिवहन के लिए पाइप-लाइन ऑयल एण्ड नेचुरल गैस कार्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अतुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवन् कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी मुसवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

#### अनुसूची

जीएनएलओ से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

राज्य: -- गुजरात जिला: -- भरुच तालुका: -- वाग्रा

| गांव        | सर्वे सं. | हे. | आर | सेन्टी. |
|-------------|-----------|-----|----|---------|
| जोलवा       | 19        | 0   | 02 | 60      |
|             | 20        | 0   | 19 | 20      |
|             | 22        | 0   | 14 | 95      |
|             | 23        | 0   | 32 | 50      |
|             | 14        | 0   | 06 | 50      |
|             | 25        | 0   | 14 | 95      |
|             | 26        | 0   | 16 | 25      |
|             | 13        | 0   | 08 | 45      |
| कार्ट ट्रैक |           | 0   | 02 | 60      |
|             | 55        | 0   | 13 | 00      |
|             | 128       | 0   | 14 | 40      |

[सं. ओ-12016/93/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1885.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLO to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in person or by legal Practitioner.

#### SCHEDULE

#### PIPELINE FROM GNLO TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Jolwa           | 19                 | 0              | 02  | 60       |
|                 | 20                 | 0              | 19  | 20       |
|                 | 22                 | 0              | 14  | 95       |
|                 | 23                 | 0              | 32  | 50       |
|                 | 14                 | 0              | 06  | 50       |
|                 | 25                 | 0              | 14  | 95       |
|                 | 26                 | 0              | 16  | 25       |
|                 | 13                 | 0              | 08  | 45       |
| Cart track      |                    | 0              | 02  | 60       |
|                 | 55                 | 0              | 13  | 00       |
|                 | 128                | 0              | 14  | 30       |

[No. O-12016/93/96-ONG. D-JV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1886 --यह: केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलओ से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पावत्र अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवन् कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी मुसवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

#### अनुसूची

जीएनएलओ से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

राज्य: -- गुजरात जिला: -- भरुच तालुका: -- वाग्रा

| गांव     | सर्वे सं. | हे. | आर | सेन्टी. |
|----------|-----------|-----|----|---------|
| रक्षियाद | 639       | 0   | 09 | 10      |
|          | 640       | 0   | 13 | 00      |
|          | 635       | 0   | 01 | 04      |
|          | 636       | 0   | 01 | 95      |

[सं. ओ-12016/94/96-ओ एन जी. डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1886.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLC to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLC TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |      |          |  |
|-----------------|--------------------|----------------|------|----------|--|
| Village         | Survey No.         | Hectare        | Acre | Centiare |  |
| 1               | 2                  | 3              | 4    | 5        |  |
| Rahiyad         | 639                | 0              | 09   | 10       |  |
|                 | 640                | 0              | 13   | 00       |  |
|                 | 635                | 0              | 01   | 04       |  |
|                 | 636                | 0              | 01   | 95       |  |

[No. O-12016/94/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.भा. 1887.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलपी से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनएलपी से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त अधिकारों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एनएलपी द्वारा घोषित किया है।

वर्तते कि उक्त भूमि में हितवन्त कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सहित प्राधिकारी, ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति बिलिम्बितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवस्थापी की मार्फत।

## अनुसूची

जीएनएलपी से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

राज्य : -- गुजरात जिला : -- भरुच तालुका : -- वाग्रा

| गांव        | सर्वे सं. | हे. | घार | सेन्टी. |
|-------------|-----------|-----|-----|---------|
| जोसबा       | 350       | 0   | 03  | 32      |
|             | 348       | 0   | 03  | 90      |
|             | 351       | 0   | 13  | 00      |
|             | 346       | 0   | 06  | 50      |
|             | 345       | 0   | 09  | 75      |
|             | 353       | 0   | 14  | 95      |
|             | 354       | 0   | 05  | 84      |
|             | 9         | 0   | 22  | 75      |
|             | 10        | 0   | 16  | 25      |
|             | 14        | 0   | 26  | 65      |
| कार्ट ट्रैक | 13        | 0   | 26  | 00      |
|             | 530       | 0   | 60  | 00      |
|             | 128       | 0   | 30  | 00      |

[सं. ओ-12016/95/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1887.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLP to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal Practitioner.

## SCHEDULE

## अनुसूची

## PIPELINE FROM GNLP TO GNYF

जीएनएलपी से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Jolwa           | 350                | 0              | 03  | 32       |
|                 | 348                | 0              | 03  | 90       |
|                 | 351                | 0              | 13  | 00       |
|                 | 346                | 0              | 06  | 50       |
|                 | 345                | 0              | 09  | 75       |
|                 | 353                | 0              | 14  | 95       |
|                 | 354                | 0              | 05  | 84       |
|                 | 9                  | 0              | 22  | 75       |
|                 | 10                 | 0              | 16  | 25       |
|                 | 14                 | 0              | 26  | 65       |
|                 | 13                 | 0              | 26  | 00       |
|                 | Cart track         | 0              | 06  | 00       |
|                 | 550                | 0              | 60  | 00       |
|                 | 128                | 0              | 30  | 00       |

राज्य : --गुजरात जिला : --भरुच तालुका : --वागरा

| गांव    | सर्वे सं. | हे. | आर. | सेंटी. |
|---------|-----------|-----|-----|--------|
| गलेन्डा | 158       | 0   | 16  | 90     |
|         | 198       | 0   | 33  | 80     |
|         | 200       | 0   | 18  | 20     |
|         | 206       | 0   | 04  | 55     |

[सं. ओ-12016/96/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1888.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLD to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

## SCHEDULE

## PIPELINE FROM GNLD TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Galenda         | 158                | 0              | 16  | 90       |
|                 | 198                | 0              | 13  | 80       |
|                 | 200                | 0              | 18  | 20       |
|                 | 206                | 0              | 04  | 55       |

[No. O-12016/96/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1888.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलपी से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइपलाइन और एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनवायएफ अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आणख्य एतद्वारा घोषित किया है।

वर्णित कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, और एण्ड नेचुरल गैस कारपोरेशन लिमिटेड, निर्माण और वेत्रभाल प्रभाग, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टता यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी गुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

का.आ. 1889.— यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलपी से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइपलाइन और एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह स्वीकार करना है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बतर्त कि उक्त भूमि में हितवद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ीदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

जीएनएलआई से जीएनवायएफ तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात      जिला : भारुच      तालुका : वाग्रा

| गांव       | सर्वे सं. | ह. | अ.र. | सेन्टी. |
|------------|-----------|----|------|---------|
| राहियाद    | 258       | 0  | 04   | 55      |
|            | 271       | 0  | 13   | 65      |
|            | 270       | 0  | 05   | 85      |
| काटे ट्रैक | 0         | 01 | 95   |         |
|            | 317       | 0  | 03   | 25      |
|            | 318       | 0  | 09   | 10      |
|            | 319       | 0  | 04   | 55      |
|            | 321       | 0  | 10   | 40      |
|            | 339       | 0  | 05   | 20      |
|            | 351       | 0  | 13   | 00      |
|            | 350       | 0  | 10   | 40      |
|            | 349       | 0  | 07   | 15      |
|            | 348       | 0  | 01   | 95      |
|            | 347       | 0  | 07   | 15      |
|            | 346       | 0  | 09   | 10      |
|            | 344       | 0  | 00   | 66      |
|            | 345       | 0  | 15   | 10      |
|            | 609       | 0  | 32   | 50      |
|            | 612       | 0  | 09   | 10      |
|            | 616       | 0  | 13   | 65      |
|            | 620       | 0  | 08   | 45      |
|            | 619       | 0  | 04   | 55      |

[सं. ओ-12016/97/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1889.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLI to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLI TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| Rahiyad         | 258                | 0              | 04  | 55       |
|                 | 271                | 0              | 13  | 65       |
|                 | 270                | 0              | 05  | 85       |
|                 | Cart track         | 0              | 01  | 95       |
|                 | 317                | 0              | 03  | 25       |
|                 | 318                | 0              | 09  | 10       |
|                 | 319                | 0              | 04  | 55       |
|                 | 321                | 0              | 10  | 40       |
|                 | 339                | 0              | 05  | 20       |
|                 | 351                | 0              | 13  | 00       |
|                 | 350                | 0              | 10  | 40       |
|                 | 349                | 0              | 07  | 15       |
|                 | 348                | 0              | 01  | 95       |
|                 | 347                | 0              | 07  | 15       |
|                 | 346                | 0              | 09  | 10       |
|                 | 344                | 0              | 00  | 66       |
|                 | 345                | 0              | 15  | 10       |
|                 | 609                | 0              | 32  | 50       |
|                 | 612                | 0              | 09  | 10       |
|                 | 616                | 0              | 13  | 65       |
| 620             | 0                  | 08             | 45  |          |
| 619             | 0                  | 04             | 55  |          |

[No. O-12016/97/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1890.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलआई से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्पावद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्द्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची,

जीएनएसएच से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : भारुच | तालुका : वागड़ा |    |         |  |
|----------------|--------------|-----------------|----|---------|--|
| गांव           | सर्वे सं.    | हे.             | आर | सेन्टी. |  |
| रहियाद         | 345          | 0               | 11 | 31      |  |
|                | 609          | 0               | 32 | 50      |  |
|                | 612          | 0               | 13 | 65      |  |
|                | 620          | 0               | 08 | 45      |  |
|                | 616          | 0               | 14 | 30      |  |
|                | 619          | 0               | 04 | 55      |  |

[सं. ओ-12016/98/96-ओ एन जी डी-4]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1890.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLI to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

#### SCHEDULE

##### PIPELINE FROM GNLI TO GNYF.

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |  |
|-----------------|--------------------|----------------|-----|----------|--|
| Village         | Survey No.         | Hectare        | Are | Centiare |  |
| 1               | 2                  | 3              | 4   | 5        |  |
| Rahiyad         | 345                | 0              | 11  | 31       |  |
|                 | 609                | 0              | 32  | 50       |  |

| 1 | 2   | 3 | 4  | 5  |
|---|-----|---|----|----|
|   | 612 | 0 | 13 | 65 |
|   | 620 | 0 | 08 | 45 |
|   | 616 | 0 | 14 | 30 |
|   | 619 | 0 | 04 | 55 |

[No. O-12016/98/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का. भा. 1891.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएसएच से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिए पाइप लाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनववायएफ अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जीएनएसएच से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

| राज्य : गुजरात | जिला : भारुच | तालुका : वागड़ा |    |         |  |
|----------------|--------------|-----------------|----|---------|--|
| गांव           | सर्वे सं.    | हे.             | आर | सेन्टी. |  |
| ओमवा           | 19           | 0               | 02 | 60      |  |
|                | 20           | 0               | 19 | 20      |  |
|                | 22           | 0               | 14 | 95      |  |
|                | 23           | 0               | 32 | 50      |  |
|                | 14           | 0               | 06 | 50      |  |
|                | 25           | 0               | 14 | 95      |  |
|                | 26           | 0               | 16 | 25      |  |
|                | 13           | 0               | 08 | 45      |  |
| काई देक        |              | 0               | 02 | 60      |  |
|                | 55           | 0               | 13 | 00      |  |
|                | 128          | 0               | 14 | 30      |  |

[सं. ओ-12016/99/96-ओ एन जी डी-4]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1891.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLG to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in person or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLG TO GNYF:

State : Gujarat District : Bharuch Taluka : Vagra

| Village | Survey No. | Hectare | Acre | Centiare |
|---------|------------|---------|------|----------|
| 1       | 2          | 3       | 4    | 5        |
| Jolwa   | 19         | 0       | 02   | 60       |
|         | 20         | 0       | 19   | 20       |
|         | 22         | 0       | 14   | 95       |
|         | 23         | 0       | 32   | 50       |
|         | 14         | 0       | 06   | 50       |
|         | 25         | 0       | 14   | 95       |
|         | 26         | 0       | 16   | 25       |
|         | 13         | 0       | 08   | 45       |
|         | Cart track | 0       | 02   | 60       |
|         | 55         | 0       | 13   | 00       |
|         | 128        | 0       | 14   | 30       |

[No. O-12016/99/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का. प्रा. 1892.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलजी से जीएनवायफ तक पेट्रोलियम के परिवहन के लिये पाइप लाइन ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी स्थानों को बिछाने के प्रयोजन के लिए एनएलजी अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना प्राथम्य एतद्द्वारा घोषित किया है।

यसमें कि उक्त भूमि में हितवाञ्छुकोंई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेंगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विशिष्ट व्यवसायी की मार्फत:

## अनुसूची

जीएनएलजी से जीएनवायफ तक पाइपलाइन बिछाने के लिए।

| राज्य : -- गुजरात | जिला : -- भारुच | तालुका : -- वागारा |     |        |
|-------------------|-----------------|--------------------|-----|--------|
| गांव              | सर्वे सं.       | हे.                | आर. | सेन्टी |
| रहियाद            | 225             | 0                  | 16  | 25     |
|                   | 226             | 0                  | 20  | 15     |
|                   | 230             | 0                  | 02  | 60     |
|                   | 231             | 0                  | 10  | 40     |
|                   | 260             | 0                  | 07  | 15     |
|                   | 261             | 0                  | 18  | 20     |
|                   | 258             | 0                  | 05  | 85     |
|                   | 262             | 0                  | 06  | 50     |
|                   | 266             | 0                  | 09  | 31     |
|                   | 265             | 0                  | 08  | 25     |
|                   | कार्ट ट्रैक     | 0                  | 01  | 95     |
|                   | 319             | 0                  | 15  | 60     |
|                   | 320             | 0                  | 01  | 30     |
|                   | 321             | 0                  | 09  | 10     |
|                   | 339             | 0                  | 03  | 90     |
|                   | 351             | 0                  | 13  | 00     |
|                   | 350             | 0                  | 10  | 40     |
|                   | 349             | 0                  | 07  | 15     |
|                   | 348             | 0                  | 01  | 95     |
|                   | 347             | 0                  | 07  | 15     |
|                   | 346             | 0                  | 09  | 10     |
|                   | 344             | 0                  | 00  | 60     |
|                   | 345             | 0                  | 15  | 60     |
|                   | 609             | 0                  | 32  | 50     |
|                   | 612             | 0                  | 09  | 10     |
|                   | 616             | 0                  | 13  | 65     |
|                   | 620             | 0                  | 08  | 45     |
|                   | 619             | 0                  | 04  | 55     |

[सं. ओ-12016/100/96-ओ एन जी डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1892.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLG to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub section (1) of the section 3 of the Petroleum and Minerals

Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

#### SCHEDULE

##### PIPELINE FROM GNLD TO GNYF

| State : Gujarat | District : Bharuch | Taluka : Vagra |     |          |
|-----------------|--------------------|----------------|-----|----------|
| Village         | Survey No.         | Hectare        | Are | Centiare |
| 1               | 2                  | 3              | 4   | 5        |
| Rahiyad         | 225                | 0              | 16  | 25       |
|                 | 226                | 0              | 20  | 15       |
|                 | 230                | 0              | 02  | 60       |
|                 | 231                | 0              | 10  | 40       |
|                 | 260                | 0              | 07  | 15       |
|                 | 261                | 0              | 18  | 20       |
|                 | 258                | 0              | 05  | 85       |
|                 | 262                | 0              | 06  | 38       |
|                 | 266                | 0              | 09  | 31       |
|                 | 265                | 0              | 08  | 25       |
|                 | Cart track         | 0              | 01  | 95       |
|                 | 319                | 0              | 15  | 60       |
|                 | 320                | 0              | 01  | 30       |
|                 | 321                | 0              | 09  | 10       |
|                 | 339                | 0              | 03  | 90       |
|                 | 351                | 0              | 13  | 00       |
|                 | 350                | 0              | 10  | 40       |
|                 | 349                | 0              | 07  | 15       |
|                 | 348                | 0              | 01  | 95       |
|                 | 347                | 0              | 07  | 15       |
|                 | 346                | 0              | 09  | 10       |
|                 | 344                | 0              | 00  | 60       |
|                 | 345                | 0              | 15  | 60       |
|                 | 609                | 0              | 32  | 50       |
|                 | 612                | 0              | 09  | 10       |
|                 | 616                | 0              | 13  | 65       |
|                 | 620                | 0              | 08  | 45       |
|                 | 619                | 0              | 04  | 55       |

[No. O-12016/100/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का. आ. 1893 .—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलडी से जीएनवायएफ तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एनयवायड अन्तर्गामी में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 का 50 की धारा 3 की उपधारा द्वारा प्रयत्न शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एनडू द्वारा घोषित किया है।

यहाँ कि उक्त भूमि में विलंब कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप असम प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाव, मकरपुरा रोड बड़ौदा-9 को हल अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या विधि व्यवसायी की मार्फत।

#### अनुसूची

ऑयलएलडी से जीएनवायएफ तक पाइपलाइन बिछाने के लिए।

राज्य : --गुजरात जिला : --भरुच तालुका : --वागडा

| गांव   | सर्वे सं. | हे. | आर | सेन्टी |
|--------|-----------|-----|----|--------|
| रहियाव | 461       | 0   | 08 | 84     |
|        | 486       | 0   | 40 | 56     |
|        | 538       | 0   | 01 | 95     |
|        | 539       | 0   | 61 | 49     |
|        | 547       | 0   | 37 | 05     |
|        | 585       | 0   | 11 | 96     |

[सं. ओ-12016/101/96-ओ एन जी. डी-IV]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1893.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLD to GNYF in Gujarat State pipeline should be laid by Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLD TO GNYF.

| State : Gujarat District : Bharuch Taluka : Vagra |            |         |      |          |
|---|------------|---------|------|----------|
| Village   | Survey No. | Hectare | Acre | Centiare |
| 1   | 2          | 3       | 4    | 5        |
| Rahiyad   | 461        | 0       | 08   | 84       |
|   | 486        | 0       | 40   | 56       |
|   | 538        | 0       | 01   | 95       |
|   | 539        | 0       | 61   | 49       |
|   | 547        | 0       | 37   | 05       |
|   | 585        | 0       | 11   | 96       |

[No. O-12016/101/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का. भा. 1894.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएल अर्द्ध से जीएनवाईएफ तक पेट्रोलियम के परिवहन के लिये पाइप लाइन अर्थात् एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपरोक्त अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम 1962 का 50 की धारा 3 का उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सभ्य अधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड, बड़ौदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किनी विधि विधि व्यवसायी की मार्फत।

## अनुसूची

जीएनएलएआई से जीएनवाईएफ तक पाइप लाइन बिछाने के लिए।

राज्य : --गुजरात जिला : --भरुच तालुका : --वाग्र

| गांव  | सर्वे सं.  | हे. | आर | सेन्टी |
|-------|------------|-----|----|--------|
| 1     | 2          | 3   | 4  | 5      |
| जोलवा | 19         | 0   | 02 | 60     |
|       | 20         | 0   | 19 | 20     |
|       | 22         | 0   | 14 | 95     |
|       | 23         | 0   | 32 | 50     |
|       | 14         | 0   | 06 | 50     |
|       | 25         | 0   | 14 | 95     |
|       | 26         | 0   | 16 | 75     |
|       | 13         | 0   | 08 | 45     |
|       | Cart track | 0   | 02 | 60     |
|       | 55         | 0   | 13 | 00     |
|       | 128        | 0   | 14 | 30     |

| 1 | 2           | 3 | 4  | 5  |
|---|-------------|---|----|----|
|   | 25          | 0 | 14 | 95 |
|   | 26          | 0 | 16 | 75 |
|   | 13          | 0 | 08 | 45 |
|   | कार्ट ट्रैक | 0 | 02 | 60 |
|   | 55          | 0 | 13 | 00 |
|   | 128         | 0 | 14 | 30 |

[सं. ओ-12016/102/96-ओ एन जी डी-4]

एम. मार्टिन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1894.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLI to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodara-390009.

And every person making such an objection shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLI TO GNYF:

| State : Gujarat District : Bharuch Taluka : Vagra |            |         |      |          |
|---|------------|---------|------|----------|
| Village   | Survey No. | Hectare | Acre | Centiare |
| 1   | 2          | 3       | 4    | 5        |
| Jolwa   | 19         | 0       | 02   | 60       |
|   | 20         | 0       | 19   | 20       |
|   | 22         | 0       | 14   | 95       |
|   | 23         | 0       | 32   | 50       |
|   | 14         | 0       | 06   | 50       |
|   | 25         | 0       | 14   | 95       |
|   | 26         | 0       | 16   | 75       |
|   | 13         | 0       | 08   | 45       |
|   | Cart track | 0       | 02   | 60       |
|   | 55         | 0       | 13   | 00       |
|   | 128        | 0       | 14   | 30       |

[No. O-12016/102/96-ONG. D-IV]

M. MARTIN, Desk Officer

नई दिल्ली, 7 जून, 1996

का. आ. 1895.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में जीएनएलडी से जीएनवाईएफ तक पेट्रोलियम के परिवहन के लिये पाइप लाइन ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड द्वारा बिछाई जानी चाहिए।

और अतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदपाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आग्रह एतद्वारा घोषित किया है।

बघाते कि उक्त भूमि में हिनबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप राख्य प्राधिकारी, ऑयल एण्ड नेचुरल गैस कारपोरेशन लिमिटेड निर्माण और देखभाल प्रभाग, मकरपुरा रोड बड़ोवा-9 को इस अक्षिपक्षता की तारीख से 26 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह साबुता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

अनुसूची

जीएनएलडी से जीएनवाईएफ तक पाइपलाइन बिछाने के लिए।

राज्य : — गुजरात जिला : — धरुच तालुका : — बागरा

| गांव  | सर्वे सं.   | हे. | आर | सेन्टी |
|-------|-------------|-----|----|--------|
| जोलवा | 19          | 0   | 03 | 90     |
|       | 33          | 0   | 10 | 40     |
|       | 31          | 0   | 37 | 70     |
|       | 27/ए/बी     | 0   | 24 | 70     |
|       | 26          | 0   | 37 | 70     |
|       | 13          | 0   | 08 | 45     |
|       | कार्ट ट्रैक | 0   | 02 | 60     |
|       | 55          | 0   | 13 | 00     |
|       | 128         | 0   | 14 | 30     |

[गं. ओ-12016/103/96-ओ एन जी डी-4]

एम. मार्टिन, डैस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1895.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from GNLD to GNYF in Gujarat State pipeline should be laid by the Oil and Natural Gas Corporation Ltd.

And, whereas, it appears that for the purpose of laying such pipeline it is necessary to acquire the right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of Users in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may object within 21 days from the date of this notification, to laying the pipeline under the land to the Competent Authority, Oil and Natural Gas Corporation Ltd. Construction and Maintenance Division, Makarpura Road, Vadodra-390009.

And every person making such an objections shall also state specifically whether he wished to be heard in persons or by legal Practitioner.

## SCHEDULE

## PIPELINE FROM GNLD TO GNYF.

| State : Gujarat | District: Bharuch | Taluka : Vagra |     |          |
|-----------------|-------------------|----------------|-----|----------|
| Village         | Survey No.        | Hectare        | Are | Centiare |
| 1               | 2                 | 3              | 4   | 5        |
| Jolva           | 19                | 0              | 03  | 90       |
|                 | 33                | 0              | 10  | 40       |
|                 | 31                | 0              | 37  | 70       |
|                 | 27/A, B           | 0              | 42  | 70       |
|                 | 26                | 0              | 37  | 70       |
|                 | 13                | 0              | 08  | 45       |
|                 | Cart track        | 0              | 02  | 60       |
|                 | 55                | 0              | 13  | 00       |
|                 | 128               | 0              | 14  | 30       |

[No. O-12016/103/96-ONG. D-IV]

M. MARTIN, Desk Officer

## अब मंत्रालय

नई दिल्ली, 30 मई, 1996

का.आ. 1896.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोटा के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या एल-40012/123/89-डी-2 (बी)]

के.वी.बी. उण्णी, डैस्क अधिकारी

## MINISTRY OF LABOUR

New Delhi, the 30th May, 1996

S.O. 1896.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Kota as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government.

[No. L-40012/123/89-D.M (B)]

K. V. B. UNNY, Desk Officer

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण, (केन्द्रीय) कोटा राज./  
निर्देश प्राकरण क्रमांक: ओ. न्या.-10/90

दिनांक स्थापित : 23-5-90

प्रसंग: भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश  
क्रमांक एन-40012/123/89-डी-2(बी) दि. 2-5-90  
औद्योगिक विवाद अधिनियम, 1947

मध्य

रामावतार द्वारा क्षेत्रीय मंत्री, हिन्द मजदूर सभा  
रंगमाली मोहल्ला, बाटा। ---प्रार्थी श्रमिक

एवं

सहायक अभियन्ता, टेलीकाम, सिविल, तनवन्डी, कोटा  
---प्रतिपक्षी नियोजक

उपस्थित

श्री आर. के. चाचान, आर. एच. के. एम.

प्रार्थी श्रमिक की ओर से प्रतिनिधि:--श्री एन. के. तिवारी  
प्रतिपक्षी नियोजक की ओर से प्रतिनिधि: श्री सी. पी. सोरल  
अधिनियम दिनांक 15-2-96

अधिनियम

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न  
निर्देश औद्योगिक विवाद अधिनियम, 1947 जिसे तदुपरान्त  
"अधिनियम" से सम्बोधित किया जायेगा, की धारा  
10(1)(घ) व उपधारा (2-क) के अन्तर्गत इस न्याया-  
धिकरण को अधिनियमार्थ सम्प्रेषित किया गया है:--

"क्या सहायक अभियन्ता (टेलीकाम सिविल), तनवन्डी,  
कोटा, द्वारा श्री रामावतार को दिनांक 1-11-87 से  
नौकरी से हटाना न्यायोचित है? यदि नहीं, तो  
कर्मचारी को क्या राहत मिलनी चाहिए?"

2. निर्देश न्यायाधिकरण में प्राप्त होने पर दर्ज  
रजिस्टर लिया गया व पक्षकारों को सूचना दी गयी। प्रार्थी  
श्रमिक रामावतार द्वारा प्रस्तुत क्लेम स्टेटमेंट के अनुसार  
संक्षेप में तथ्य इस प्रकार है कि प्रार्थी को मुख्य  
अभियन्ता, टेलीकाम सिविल, सय डिविजन, तनवन्डी,  
कोटा, (जिसे तदुपरान्त "प्रतिपक्षी नियोजक" से सम्बोधित  
किया जायेगा) द्वारा दिनांक 18-4-86 से चौकीदार  
के पद पर नियोजित किया गया था परन्तु उसे 1-11-87  
को यह कहकर नौकरी से निकाल दिया कि कुछ दिन बाद  
आपका नौकरी पर ले लेंगे। इसके बाद प्रार्थी प्रतिपक्षी  
नियोजक के यहां कई बार उपस्थित होता रहा परन्तु प्रार्थी  
को आजकल कार्य दायते रहे, अन्त में प्रार्थी ने नियोजक  
को दि. 3-3-89 को रजिस्टर्ड पत्र डाक द्वारा प्राप्त  
के तीन दिवस में नौकरी वाप लेने का अनुरोध किया  
तथा प्रार्थी को जितने दिन नौकरी से बाहर रखा उस  
अवधि के वेतन का लाभ को अवस्था अवधि समाप्ति  
पर कानूनी दावेदाह के लिये सूचित किया। प्रतिपक्षी  
को यह पत्र प्राप्त हो गया परन्तु उसका कोई  
उत्तर प्रार्थी को नहीं दिया गया व न ही नौकरी पर  
लिया गया। इस प्रकार प्रार्थी ने प्रतिपक्षी नियोजक  
के यहां 18-4-86 से 31-10-87 तक निरन्तर कार्य

किया तथा 240 दिन से अधिक समय तक काम किया।  
प्रतिपक्षी नियोजक द्वारा प्रार्थी को सेवा से निकालने से  
पूर्व अधिनियम की धारा 25-एफ की पालनानुसंगत  
एक माह का नोटिस अथवा नोटिस वेतन व छटनी का  
मुआवजा नहीं दिया गया और न ही प्रस्तावित किया  
गया। उसे सेवा से निकालने से पूर्व वरिष्ठता सूची का  
प्रकाशन भी नहीं किया गया, उसे सेवा से निकालते  
समय श्रमिक से कठिण श्रमिक नियोजन में मौजूद रहे  
जोकि पहले आये पीछे जाये सिद्धांत को अवहेलना है।  
अन्त में प्रार्थी ने प्रार्थना की है कि उसे पिछले सम्पूर्ण  
वेतन व समस्त सेवा लाभों सहित पुनः सेवा में बहाल  
करवाया जावे।

3. प्रतिपक्षी नियोजक की ओर से जवाब पेश हुआ  
है कि प्रार्थी को दैनिक वेतन पर आकस्मिक प्रकृति के  
कार्य पर अस्थायी स्टोर में दि. 18-4-86 से लगाया  
गया था एवं प्रतिपक्षी के पास अस्थायी सिविल स्टोर  
का कार्य समाप्त होने पर प्रार्थी को नौकरी पर नहीं  
लगाया। प्रार्थी का छटनी का भामला नहीं है। चूंकि  
प्रतिपक्षी के पास अस्थायी स्टोर का कार्य समाप्त हो गया  
था, इसलिये प्रार्थी को नौकरी में लिया जाना सम्भव  
नहीं था, अतः प्रार्थी का क्लेम खारिज किया जावे।

4. प्रार्थी रामावतार ने साक्ष्य में स्वयं का शपथ-पत्र  
प्रस्तुत किया है जिससे नियोजक प्रतिनिधि ने जिरह की  
एवं प्रतिपक्षी नियोजक की ओर से मुनीलकुमार जैन ने  
साक्ष्य में अपना शपथ-पत्र प्रस्तुत किया है जिससे श्रमिक  
प्रतिनिधि द्वारा जिरह की गयी है। बहस अन्तिम सुनी  
गया व नवावली का अवलोकन किया गया।

5. प्रार्थी के विद्वान प्रतिनिधि ने अपनी बहस में  
कहा है कि प्रतिपक्षी नियोजक के जवाब से ही स्वीकृत  
है कि प्रार्थी ने प्रतिपक्षी के यहां 18-4-86 से 31-10-87  
तक लगातार कार्य करते हुए 240 दिन से अधिक समय  
तक कार्य किया परन्तु उसके बावजूद प्रार्थी को नौकरी से  
निकालने से पूर्व अधिनियम की धारा 25-एफ की पालना  
स्वांगत रूप से नहीं की गयी, अतः प्रार्थी पिछला सम्पूर्ण  
वेतन व सेवा के समस्त लाभों सहित पुनः सेवा में  
आने का अधिकारी है।

6. प्रतिपक्षी नियोजक के विद्वान प्रतिनिधि ने बहस  
की है कि प्रार्थी सेवा से हटने के बाद अन्यत्र स्थान पर  
कार्यरत रहा है, जिसका वेतन कम किया जावे।

7. प्रार्थी रामावतार ने अपने शपथ-पत्र में प्रतिपक्षी  
के यहां 18-4-86 से चौकीदार के पद पर नियोजित होना  
व प्रतिपक्षी द्वारा 1-11-87 से नौकरी से निकालना  
कहा है। प्रतिपक्षी ने उसे बावजूद नोटिस के नौकरी पर  
पर नहीं लिया व न ही अग्रिम वेतन व छटनी का  
मुआवजा दिया।

8. प्रतिपक्षी को ओर से भोजो गवाह सुनाल कुमार जैन उपस्थित हुआ है, उसने अपनी जिरह से स्पष्ट यह स्वीकार किया है कि प्रार्थी को 18-4-86 को चौकीदार के पद पर नियोजित किया था, व उसे 1-11-87 को नौकरी से हटा दिया था।

9. पत्रावली के अवलोकन से प्रकट होता है कि प्रार्थी ने समझौता अधिकारी के यहां प्रतिपक्षी द्वारा नौकरी से निकालने के बाद प्रार्थना-पत्र प्रस्तुत किया था। सहा. श्रमयुक्त (केन्द्रीय) कोटा ने अपनी रिपोर्ट प्रदर्श डब्ल्यू 5 में प्रार्थी के 258 दिन कार्य करना माना है एवं प्रतिपक्षी को नौकरी में लेने की सलाह दी थी परन्तु फिर भी प्रतिपक्षी ने प्रार्थी को नौकरी पर नहीं लिया। सहा. श्रमयुक्त द्वारा अपना असफल वार्ता प्रतिवेदन प्रदर्श डब्ल्यू 5 भारत सरकार, श्रम मंत्रालय को भेजा गया जिसमें स्पष्ट अंकित किया कि प्रतिपक्षी द्वारा प्रार्थी को बिना छंटनी का सुझाव दिया नौकरी से निकालना सही नहीं था। उनके द्वारा नौकरी पर रखने की सलाह भी दी गयी परन्तु उसे नौकरी पर नहीं रखा गया। इसके अतिरिक्त स्वयं प्रतिपक्षी का ओर से जो साथ प्रस्तुत हुई है उसमें भी प्रार्थी द्वारा उनके यहां कार्य से लगने से हटाने के दिन तक 240 दिन कार्य करने की स्वीकारोक्ति की गयी है। इसके साथ यह भी स्वीकार किया गया कि प्रार्थी को सेवा से हटाने के समय एक माह का नोटिस नहीं दिया गया। इस प्रकार यह स्पष्ट प्रकट होता है कि प्रार्थी श्रमिक ने प्रतिपक्षी के यहां नौकरी से निकालने से पूर्व 240 दिन से अधिक समय तक कार्य कर लिया था, ऐसी सूरत में प्रतिपक्षी द्वारा प्रार्थी को अधिनियम की धारा 25-एफ के प्रावधानान्तर्गत एक माह का नोटिस अथवा नोटिस वेतन व छंटनी का सुझाव अदा करके ही सेवा से निकाला जा सकता था, परन्तु प्रतिपक्षी द्वारा ऐसी कोई पालना नहीं की गयी है जिससे उसे सेवा से निकाला जाना अवैध व अनुचित घोषित किये जाने योग्य है व फलस्वरूप प्रार्थी पिछले सम्पूर्ण वेतन व सेवा की निरन्तरता सहित पुनः सेवा में आने का अधिकारी घोषित होने योग्य है।

10. उपरोक्त सम्पूर्ण विवेचन के आधार पर भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश को इस प्रकार उत्तरित किया जाता है कि सहायक श्रमियन्ता (टेलीकाम सिविल) तलवन्डी, कोटा द्वारा श्रमिक रामावतार को 1-11-87 से नौकरी से हटाना न्यायोचित नहीं है, फलस्वरूप प्रार्थी पिछले सम्पूर्ण वेतन व सेवा की निरन्तरता सहित पुनः सेवा में लिये जाने का अधिकारी घोषित किया जाता है।

इस अधिनियम को समुचित सरकार को नियमानुसार प्रकाशनार्थ भिजवाया जावे।

आर.के. चाचान, न्यायाधीश

नई दिल्ली, 31 मई, 1996

का.आ. 1897.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के पबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, नं. 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-40012/72/93-आईआर (ड्यू)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1897.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-1996.

[No. L-40012/72/93-IR (DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/48 of 1994

Employers in relation to the management of Telecom District Manager, Kolhapur

AND

Their Workman.

APPEARANCES :

For the workmen—Mr. S. P. Kulkarni, Advocate.

For the Employer—Mr. P. M. Pradhan, Advocate.

Mumbai, the 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/72/93-IR (DU) dated 30-9-94 had referred to the following dispute for adjudication.

"Whether the action of the Department of Telecom Distt. Manager, Kolhapur, Telecom Bhawan, Tarabai Park, Kolhapur (MS) and the S.D.O. Phones, Kolhapur in stopping from services of Shri Mahadev Maruti Diwase R/o Nadgevadi, Tal. Karveer w.e.f. 1-1-1985 and then even not giving him an opportunity to be taken back on duty as per the scheme framed by Director General, Telecom, New Delhi on 7-11-1989 for reemployment of Casual Mazdoor is justified and proper? If not, to what relief the workman is entitled?"

2. Mahadev Maruti Diwase, the worker pleaded that he was employed as a Mazdoor on a daily wage basis by S.D.O. Phones, Kolhapur. He works under the control of District Manager, Kolhapur. The worker pleaded that he worked for 350 days between March '83 to December '84.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice nor compensation at the time of retrenchment. He pleaded that the management has not

maintained the corrected record of attendance. It is averred that the Scheme dated 7-11-89 was not properly implemented by the management with a proper seniority list. It is pleaded that re-engagement were given floating the gradation list. It is averred that the management did not consider the contents of the complaint (21-10-91) and the demand notices dated 4-2-91 and 26-8-91.

4. The worker prayed that he may be reinstated in service with full back wages and continuity w.e.f. date of retrenchment. He prayed for 18% interest on the due amount. He also submitted that he may be awarded temporary status.

5. The management resisted the claim by the written statement. It is pleaded that he work diary under the S.D.O. Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification at the time of confirming temporary status or re-employment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or a compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is denied that the scheme was not properly implemented. It is emphatically denied that the reengagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my findings thereon are as follows:

| ISSUES  | FINDINGS   |
|---|--|
| 1. Whether the Tribunal has jurisdiction to try the reference ?                 | No   |
| 2. Whether the management stopped the worker from service ?                     | Does not survive<br>If survives, No                                |
| 3. Whether the management did not implement properly the scheme dated 7-11-89 ? | Does not survive<br>If survive the scheme was properly implemented |
| 4. What reliefs, if any the worker is entitled to ?                             | Does not survive<br>Not entitled to any reliefs.                   |

#### REASONS

8. It is not in dispute that the worker was appointed as a mazdoor on daily wages by the Sub-divisional Officer (P), Kolhapur. His work was of wireman on line.

9. The management did not raise an issue of jurisdiction in the written statement. But Mr. Pradhan the Learned Advocate for the management raised the issues at the time of the argument in view of the judgment between sub-divisional Inspector of Posts Vaikam and other Vs. Theyyam Joseph etc. 1996 (2) Supreme 487. That was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointment as a stop gap arrangement. There the question arose whether the appellant i.e. the posts is an industry or not. Their Lordships observed "India as a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of state policy enjoin on the

State diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duties of the state is to provide telecommunication service to the general public and an amenity, and so is one essential part of the sovereign functions of the state as a welfare state. It is not, therefore an industry."

10. On the basis of the ratio given in this authority Mr. Pradhan the Learned Advocate for the management argued that the Telecom is not an Industry and naturally the Tribunal has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the word telecommunication. It means communication over a distance by cable, telegraph, telephone or broadcasting. The work which is done by Telecom definitely falls within the purview of telecommunication.

11. Mr. Kulkarni, the Learned Advocate for the worker while replying the argument of the management submitted that the authority has no application. According to him the extra departmental agent referred to in that authority is a holder of civil post not like that of the workmen. The civil posts are governed by the statutory civil rules and not like the mazdoors. Naturally they do not belong to the category of the worker as defined under the Industrial Disputes Act. He had objected on the point of the capacity of an extra departmental agent but had not given his reasons why telecom has to be termed as an industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if it is found that the above said finding is not correct I intend to discuss the remaining issues.

13. The scheme dated 7-11-89 came in to effect from 1-10-89 onwards. It states existing vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be confirmed with temporary status till they are regularised. The above scheme was further modified/clarified and improved under different letters dated 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to be that :

- All those casual mazdoors who were engaged before 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due, the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni the Learned Advocate for the workman that the scheme does not restrict the reengagement of the worker who had not completed 240 days in a year or who are refrained from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does not mean that the scheme gives right for getting re-employment what is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for reemployment on the basis of the scheme has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. But so far as these workers are concerned their case does not appear to be that they were employed prior to 1980. There is no specific suggestion that the management does not possess

the record of a particular worker. Even for the sake of argument it is accepted that the record of the worker is not with the management, he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages, period from which they have worked, muster roll No. unit in which worked etc. No such record was produced before the authority.

17. Mahadev Maruti Diwase (Exhibit-5) the worker affirmed that he worked for 350 days from March, 1983 to December, 1984. But he produced the certificate (C-2) given by the management showing that he worked for 119 days. Gokakkar (E-7) affirmed that Mahadev worked for 119 days only and not 350 days as alleged. Mahadev had not produced the identity card nor diary or any other piece of document/evidence orally or documentally to substantiate the case that he worked for 350 days. Gokakkar affirmed that Mahadev never worked in December 1984 and his name does not find place in the muster rolls as alleged by him. He produced the muster rolls on record where in his name does not appear. Under such circumstances it cannot be said that Mahadev had worked for 240 days in a year.

18. Mahadev affirmed that he was discontinued from service from January '85. He slept over the matter till 1991 and filed his complaint on 31-10-91. He gave the demands on 4-2-91 and 26-8-91. If really he would have been stopped from giving work by the management then he would have raised an objection in writing long back. He did not do so. He had raised this contention only because the scheme came into existence and he wants to take benefit of it. He is not terminated by the management but he had stopped coming to the work on his own accord.

19. Mahadev has not completed 240 days in a year. Therefore there was no question of applying the scheme dated 7-11-89 to the worker. In this case it cannot be said that the scheme was not properly made applicable to him. It is therefore, he is not entitled to any of the reliefs as he claimed. In the result I record my findings on the issues accordingly and pass the following order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

का.आ. 1898—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-40012/70/93-आई आर (डीयू)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1898.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-1996.

[No. L-40012/70/93-IR (DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENTS :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/46 of 1994

Employers in relation to the Management of Telecom District Manager, Kolhapur.

AND

Their workmen.

APPEARANCES :

For the Workmen : Mr. S. P. Kulkarni, Advocate.

For the Employer : Mr. P. M. Pradhan, Advocate.  
Mumbai, the 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its order No. L-40012/70/93-IR(DU) dated 30-9-94, had referred to the following Dispute for adjudication.

"Whether the action of the Mgt. Dept. of the Telecom District Manager, Kolhapur, Telephone Bhawan, Tarabai Pari, Kolhapur (M.S.) and the S.D.O. Phones Kolhapur in stopping from services of Shri Sarjerao Dattu Balugade, Nagdevwadi, Tal. Karveer w.e.f. 1-1-1985 and then even not given him an opportunity to be taken back on duty as per the scheme framed by Director General, Telecom, New Delhi on 7-11-1989 for re-employment of Casual Mazdoor is justifie and proper? If not, what relief the workman is entitled to?"

2. Sarjerao Dattu Balugade, the worker pleaded that he was employed as a Mazdoor on a daily wage basis by S.D.O. Phones, Kolhapur. He works under the control of District Manager, Kolhapur. The worker pleaded that he worked for 350 days between March, 1983 to December 1984.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice nor compensation at the time of retrenchment. He pleaded that the management has not maintained the correct record of attendance. It is averred that the scheme dated 7-11-89 was not properly implemented by the management with a proper seniority list. It is pleaded that re-engagement were given flouting the gradation list. It is averred that the management did not consider the contents of the complaint (31-10-91) and the demand notices dated 4-2-91 and 26-8-91.

4. The worker prayed that he may be reinstated in service with full back wages and continuity w.e.f. date of retrenchment. He prayed for 18 per cent interest on the due amount. He also submitted that he may be awarded temporary status.

5. The management resisted the claim by the written statement. It is pleaded that the work diary under the S.D.O. Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification at the time of confirming temporary status or re-employment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or a compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is denied that the scheme was not properly implemented. It is emphatically denied that the re-engagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my findings there on are as follows:

| Issues   | Findings   |
|--|--|
| 1. Whether the Tribunal has jurisdiction to try the reference?                 | No.  |
| 2. Whether the management stopped the worker from service?                     | Does not survive. If survives, No.                     |
| 3. Whether the management did not implement properly the Scheme dated 7-11-89? | Does not survive. The scheme was properly implemented. |
| 4. What reliefs, if any the worker is entitled to?                             | Does not survive. Not entitled to any reliefs.         |

#### REASONS

8. It is not in dispute that the worker was appointed as a mazdoor on daily wages by the Sub-Divisional Officer (P), Kolhapur. His work was of wire man on line.

9. The management did not raise an issue of jurisdiction on the written statement. But Mr. Pradhan the Learned Advocate for the management raised the issue at the time of the argument in view of the judgement between sub-divisional Inspector of posts Vaikam and other Vs. Theyyam Joseph etc. 1996 (2) Supreme 487. That was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointment as a stop gap arrangement. There the question arose whether the appellant i.e. the post is an industry or not. Their Lordships observed "India as a sovereign, socialist, secular, democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive Principles of State Policy enjoin on the State diverse duties under Part IV of the Constitution and the performance of the duties are constitutional functions. One of the duty is of the State is to provide telecommunication service to the general public and an industry, and so is one essential part of the sovereign functions of the state as a welfare state. It is not, therefore an industry."

10. On the basis of the ratio given in this authority Mr. Pradhan the Learned Advocate for the management argued that the Telecom is not an Industry and naturally the Tribunal has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the word telecommunication. It means a communication over a distance by cable, telegraph, telephone or broadcasting. The work which is done by Telecom, definitely falls within the purview of telecommunication.

10. Mr. Kulkarni, the Learned advocate for the worker while replying the argument of the management submitted that the authority has no application. According to him the extra departmental agent referred to in that authority is a holder of civil post not like that of the workman. The civil posts are governed by the statutory civil rules and not like the mazdoors. Naturally they do not belong to the category of the worker as defined under the Industrial Disputes Act. He had dialected on the point of the capacity of a extra departmental agent but had not given reasons why Telecom has to be termed as an Industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an Industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if it is found that the above said findings is not correct I to discuss the remaining issues.

13. The scheme dated 7-11-89 came into effect from 1-10-89 onwards. It entitles the vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be con-

sidered with temporary status till they are regularised. The above scheme was further modified/clarified and improved under different letters dated 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to that:

- All those casual mazdoors who were engaged before 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni the Learned Advocate for the workman that the scheme does not restrict the reengagement of the worker who had not completed 240 days in a year or who are refrained from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does not mean that the scheme gives right for getting reemployment. What is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for reemployment on the basis of the scheme has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. But so far as these workers are concerned their case does not appear to be that they were employed prior to 1980. There is no specific suggestion that the management does not possess the record of a particular worker. Even for the sake of argument it is accepted that the record of the worker is not with the management, he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages, period from which they have worked, muster roll No. unit in which worked etc. No such record was produced before the authority.

17. Sarjerao Dattu Balgude (Exhibit-5) affirmed that he worked for 350 days from March '83 to December '84. But had not produced any documentary evidence to that effect. He had produced a certificate (C2) given by the management showing that he worked for 162 days from March 1983 to July 1983. Gokakkar (Ex-7) affirmed to that effect. In other words it can be said that there is a documentary evidence showing the worker worked for 126 days and not more than that.

18. Sarjerao Dattu Balgude had not produced any diary showing that he had worked for so many days and they are duly certified by the line man or the superiors. It is tried to submit in this correspondence that he worked with a particular line man and they not considered by the management. Gokakkar affirmed that the worker never worked in the year 1984. His name was not recorded in Muster Nos. 0548/1516 and also 1718 and 0549/1616 and 0704/1011 and 312/0506. The copies of the said muster roll were produce on the record to support this submission. That clearly goes to show that the workman has not completed 240 days at any time as contemplated under the scheme.

19. Sarjerao affirmed that he was not allowed to work from 1-1-85. But the first complaint he made was on 31-10-91. Thereafter he made the demands on 4-2-91 and 26-8-91. He affirmed that he visited the office for getting the job repeatedly till 7-11-89. That is the date when the scheme came into existence. If really he had visited the office for getting the job he would have complained in writing as he did in the year 1991. It is not that he was refrained by anybody for doing so. That itself goes to

show that he was stopped from the work by the management. But as affirmed by Gookkakar he himself chose for not going to the duty. He wanted to take the advantage of the scheme and therefore had filed the complaint and got the reference referred to this Tribunal. In the result I record my findings on the issues accordingly and pass the following Order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

का.आ. 1899—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा संचार के प्रबंधन के संबंध निरोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचपट को प्रकाशित करनी है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-40012/71/93-आईआर (डीयू)]

श्री. एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1899.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-1996.

[No. L-40012/71/93-IR (DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

#### PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/47 of 1994

Employers in relation to the management of Telecom District Manager, Kolhapur

AND

Their workmen.

#### APPEARANCES :

For the workmen—Mr. S. P. Kulkarni, Advocate.

For the Employer—Mr. P. M. Pradhan, Advocate.

Mumbai, dated the 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/71/93-IR (DU) dated 30-9-1994, had referred to the following dispute for adjudication.

"Whether the action of the Department of Telecom District Manager, Kolhapur Telecom Bhawan, Jambai Park, Kolhapur (MS) and the S.D.O., Phones, Kolhapur in stopping from services of Shri Shambhaji Rau Diase, Tal Karveer, Nadevewadi w.e.f. 1-1-1995 and then even not giving him an opportunity to be taken back on duty as per the scheme

framed by the Director General, Telecom, New Delhi on 7-11-89 for re-employment of casual mazdoor is justified and proper? If not, what relief the workman is entitled to?"

2. Shambhaji Rau wicase, the worker pleaded that he was employed as a Mazdoor on a daily wage basis by S.D.O., Phones, Kolhapur. He works under the control of District Manager, Kolhapur. The worker pleaded that he worked for 350 days between March '83 to December '84.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice nor compensation at the time of retrenchment. He pleaded that the management has not maintained the correct record of attendance. It is averred that the Scheme dated 7-11-89 was not properly implemented by the management with a proper seniority list. It is pleaded that reengagement were given flouting the gradation list. It is averred that the management did not consider the contents of the complaint (21-10-91) and the demand notice dated 4-2-91 and 26-8-91.

4. The worker prayed that he may be reinstated in service with full back wages and continuity w.e.f. date of retrenchment. He prayed for 18 percent interest on the due amount. He also submitted that he may be awarded temporary status.

5. The management resisted the claim by the written statement. It is pleaded that the work diary under the S.D.O. Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification the time of confirming temporary status or re-employment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or a compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is denied that the scheme was not properly implemented. It is emphatically denied that the reengagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my finding thereon are as follows :

#### ISSUES

#### FINDINGS

- |   |   |
|---|---|
| 1. Whether the Tribunal has jurisdiction to try the reference ?                 | No  |
| 2. Whether the management stopped the worker from service ?                     | Does not survive<br>If survives, No                                 |
| 3. Whether the management did not implement properly the scheme dated 7-11-89 ? | Does not survive<br>If survives the scheme was properly implemented |
| 4. What reliefs, if any the worker is entitled to ?                             | Does not survive<br>Not entitled to any reliefs                     |

#### REASONS

8. It is not in dispute that the worker was appointment as mazdoor on daily wages by the Sub-Divisional Officer (2), Kolhapur. His work was of wireman on line.

9. The management did not raise an issue of jurisdiction in the written statement. But Mr. Pradhan, the Learned

Advocate for the management raised the issue at the time of the argument in view of the judgement between sub-divisional Inspector of posts Vaikam and other Vs. Theyyam Joseph etc. 1966 (2) Supreme 487 that was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointment as a stop gap arrangement. There the question arose whether the appellant i.e. the post is an industry or not. Their Lordships observed "India as a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of state policy enjoin on the State diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duty is of the state is to provide telecommunication service to the general public and an amenity, and so is one essential part of the sovereign functions of the state as a welfare state. It is not, therefore an industry."

10. On the basis of the ratio given in this authority Mr. Parthun, the Learned Advocate for the management argued that the Telecom is not an industry and naturally the court has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the words telecommunication. It means a communication over a distance by cable, telegraph, telephone or broadcasting. The work which is done by Telecom definitely falls within the purview of telecommunication.

11. Mr. Kulkarni, the Learned Advocate for the worker while replying the argument of the management submitted that the authority has no application. According to him the extra departmental agent referred to in that authority is a holder of civil post not like that of the workman. The civil posts are governed by the statutory civil rules and not like he mazdoors. Naturally they do not belong to the category of the worker as defined under the Industrial Disputes Act. He had dialected on the point of the capacity of an extra departmental agent but had not given his reasons why Telecom has to be termed as an industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if its found that the above said finding is not correct I intend to discuss the remaining issues.

13. The scheme dated 7-11-89 came in to effect from 1-10-89 onwards. It states existing vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be confirmed with temporary status till they are regularised. The above scheme was further modified/clarified and improved under different letters dated 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to be that :

- (a) All those casual mazdoors who were engaged before 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- (b) Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni, the Learned Advocate for the workman that the scheme does not restrict the reengagement of the worker who had not completed 1475GI/96-5

240 days in a year or who are refrain from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does not mean that the scheme gives right for getting re-employment what is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for reemployment on the basis of the scheme has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. But so far as these workers are concerned their case does not appear to be that they were employed prior to 1980. There is no specific suggestion that the management does not possess the record of a particular worker. Even for the sake of argument it is accepted that the record of the worker is not with the management, he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages, period from which they have worked, muster roll No. unit in which worked etc. No such record was produced before the authority.

17. Sambhaji Rau Disease (Exhibit-5) the worker affirmed that he worked for 350 days between March '83 to December '84. He has produced the certificate (C-2) showing that he had worked for 124 days. Gokakkar (Ex-7) affirmed that Sambhaji worked between 26th March 1983 to July 1983. It relates to 124 days. He denied that Sambhaji worked for 350 days as alleged by him.

18. Sambhaji had not produced identity card nor a diary nor any other piece of documentary evidence which will show that he worked for more than 124 days. What he wants that the management should produce the record to show his working days to be 350. There is no such record to show that. Gokakkar affirmed that Sambhaji had not worked in the year 1984 as alleged by him and his name does not find place in the muster rolls. He produced the same on the record. Under such circumstances I am not inclined to accept that Sambhaji worked for 350 days as alleged and complied the condition of working for 240 days as mentioned in the scheme. Therefore his name appearing in the seniority list or that he is not given weightage or re-employment has no merit.

19. Sambhaji affirmed that he was denied work from January 1985. It is denied by Gokakkar. Their case appears to be that from August 1983 the worker had on his own accord left the job and did not return. The first application which was made by Sambhaji was on 8-2-91. Thereafter he gave a complaint on 31-10-91. He gave the demands on 4-2-91 and 26-8-91. In other words the first action he took after about a lapse of six years. If really he would have been asked by the management not to come to work then in that case he would have raised his objections in writing at that time as he did now. As he had not done so I am not inclined to accept that the management terminated his service. Under the scheme whether his services were terminated or he left the job on his own accord does not make any difference. If he completes the working days contemplated under the scheme he is entitled for reappointment. But as observed above he has not completed the requisite number of working days in a year. As such he is not entitled to get reappointment as asked. For all these reasons I record my findings on the issues accordingly and pass the following Order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

का. आ --1900 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में केन्द्रीय सरकार दूर संचार के प्रबन्धतंत्र के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[सं. एल-40012/99/93-आई आर (डी यू)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1900.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-96.

[No. L-40012/99/93-IR(DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 MUMBAI

Present :

Shri S. B. PANSE, Presiding Officer.

REFERENCE NO. CGIT-2/41 OF 1994

Employers in relation to the management of Telecom  
District Manager, Kolhapur.

AND

Their Workmen

APPEARANCES :

For the Workmen : Mr. S. P. Kulkarni, Advocate.

For the Employer : Mr. P. M. Pradhan, Advocate.  
Mumbai, dated 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its order No. L-40012/99/93-IR(DU) dated 25-8-94 had referred to the following Dispute for adjudication.

"Whether the action of the management of Telecom Distt. Manager, Kolhapur, Telephone Bhawan, Tarabadi Part, Kolhapur (M. S.) and the SDO Phones, Kolhapur in stopping from services of Shri Rajaram Laxman Shipker R/e, Ambewadi, Tal. Karvir, Distt. Kolhapur Pin 416 229 w.e.f. 1-12-83 and then even not giving him an opportunity to be taken back on duty as per the Scheme framed by Director General, Telecom, New Delhi on 7-11-89 for re-employment of casual mazdoors is proper legal and justified? If not, to what relief the workman concerned is entitled?"

2. Rajaram Laxman Shipker, the worker pleaded that he was employed as Mazdoor on daily wages basis by S.D.O. Phones, Kolhapur. He works under the control of District Manager, Kolhapur. The worker pleaded that he worked for 92 days between March 1983 to June 1983. He was deputed to Goa Division where he worked for 154 days between 28-6-83 to 30-11-83. Thus he claims to have completed 246 days in a year.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice nor compensation at the time of retrenchment. He pleaded that the management has not maintained the correct record of attendance. It is averred that the scheme dated 7-11-89 was not properly implemented by the management with a proper seniority list. It is pleaded that re-engagement were given flouting the graduation list. It is averred that the management did not consider the contents of the complaint (27-11-89) and demand notices dtd. 12-2-1991 and 30-3-1992.

4. The worker prayed that he may be re-instated in service with full back wages and continuity w.e.f. date of retrenchment. He prayed for 18% interest on the due amount. He also submitted that he may be awarded temporary status.

5. The management resisted the claim by the written statement. It is pleaded that the work diary under the SDO Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification at the time of confirming temporary status or re-employment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or a compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is also averred that the scheme was not properly implemented. It is emphatically denied that the re-engagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my findings there on are as follows :

| Issues  | Findings   |
|---|--|
| 1. Whether the Tribunal has jurisdiction to try the reference?                | No   |
| 2. Whether the management stopped the worker from service?                    | Does not survive. If survives, No.                         |
| 3. Whether the management did not implement properly the scheme dtd. 7-11-89? | Does not survive. If survives, Yes.                        |
| 4. What reliefs, if any the worker is entitled to?                            | Does not survive. If survives, as mentioned in the reasons |

#### REASONS

8. It is not in dispute that the worker was appointed as a mazdoor on daily wages by the Sub-Divisional Officer, D.D. Kolhapur. His work was of wireman on line.

9. The management did not raise an issue of jurisdiction on the written statement. But Mr. Pradhan the Learned Advocate for the management raised the issue at the time of the argument in view of the judgement between sub-divisional Inspector of posts Vaikam and other V/s. Theyyam Joseph etc. 1996 (2) Supreme 487. That was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointment as a stop gap arrangement. There the question arose whether the appellant i.e. the post is an industry or not. Their Lordships observed "India as a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of State policy enjoin on the State diverse duties under Part IV of the Constitution and the performance of the duties are constitutional functions. One of the duty is of the State is to provide telecommunication service to the general public and an amenity, and so is one essential part of the sovereign functions of the state as a welfare State. It is not, therefore an industry."

10. On the basis of the ratio given in this authority Mr. Pradhan the Learned Advocate for the management argued that the Telecom is not an Industry and naturally the Court has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the word telecommunication. It means a communication over a distance by cable, telegraph, telephone or broadcasting. The work which is done by Telecom definitely falls within the purview of telecommunication.

11. Mr. Kulkarni, the Learned advocate for the worker while replying the argument of the management submitted that the authority has no application. According to him the

extra departmental agent referred to in that authority is a holder of civil post not like that of the workman. The civil posts are governed by the statutory civil rules and not like the mazdoors. Naturally they do not belong to the category of the worker defined under the Industrial Disputes Act. He had dilaated on the point of the capacity of an extra departmental agent but had not given his reasons why Telecom has to be treated as an Industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an Industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if it is found that the above said finding is not correct I intend to discuss the remaining issues.

13. The scheme dated 7-11-89 came in to effect from 1-10-89 onwards. It states existing vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be confirmed on temporary status till they are regularised. The above scheme was further modified/clarified and improved under different letters dtd. 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to that :

- (a) All those casual mazdoors who were engaged 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- (b) Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni the Learned Advocate for the workman that the scheme does not restrict the re-engagement of the worker who had not completed 240 days in a year or who are refrained from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does not mean that the scheme gives right for getting re-employment. What is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for re-employment on the basis of the scheme has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. But so far as these workers are concerned their case does not appear to be that they were employed prior to 1980. There is no specific suggestion that the management does not possess the record of a particular worker. Even for the sake or argument it is accepted that the record of the worker is not with the management, he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages, period from which they have worked etc. No such record was produced before the authority. In its place diaries which the worker claims to have maintained are tried to be produced.

17. Rajaram affirmed that he worked for 246 days. He worked for 92 days between March, 1983 to June, 1983. This position is not disputed by Gokakkar.

18. Rajaram affirmed that he was deputed to Goa for Chogum work between 28-6-83 to 30-11-83. He worked there for 154 days. Ramesh Govind Katti (Exhibit-7) the line man under whom the worker was working affirmed that the extract which were shown to him bears his signature and one S.T. from his division was sent to Goa for work. In the cross-examination he admits that the extract does not

disclose the name of the person to whom it relates. There were 25 employees working under him at Goa. But he does not remember their names. It is tried to argue on behalf of the management that his evidence does not support the worker. I am not inclined to accept this. It is because this witness supports the worker to the fact that employees were sent to Goa on deputation. The worker claims to be one of them. He had produced the diary pages alongwith Exhibit—'9'. Those sheets are loose sheets. But even then every page bearing the working days of the worker are shown bears the signature of the concerned line man. It can be further seen that entries made in respect of the work which he did had at Kolhapur corroborates from those pages and from the extract of muster roll which is produced by the management. If really the worker wants to create a false document he would have done it for more days but not of 246 days.

19. It is tried to submit that Goa is a different division than that of Kolhapur and the work done there cannot be considered to be the work done at Kolhapur. In normal course that would have been accepted. But Gokakkar in categorical terms have stated that they have considered the work done by the casual labourers at Goa while computing their working days. On its basis the reemployment was given. If that is so why not the case of this worker is to be considered.

20. From the documents produced on the record alongwith the statement of claim it reveals that the management wanted the worker to go to Goa, collect the evidence of his attendance and show to the management. In fact it was their duty to keep the record and not of the worker. The workers duty was to keep the identity card which was admittedly not given to him. Therefore he chose to maintain the diary. The management tried to reject it as it is not authenticated. Exhibit—'C/2' is a chart showing 154 working days of the workman at Goa. There is no reason why this extract has to be rejected which was given to the worker which tallies all the entries in the diary. I therefore find that the evidence which is produced before me by the worker so far as the working days at Goa and at Kolhapur are concerned, they clearly go to show that he fulfills the conditions of the scheme to get the status of a temporary worker.

21. It can be further seen that the worker claims that he was asked by the management not to come on duty from 1-12-83. He affirmed that he was visiting to the office for getting the work till 7-11-89. That is the date when the scheme came to existence. Thereafter he had given a complaint on 27-11-89 and then on 12-2-91 and 30-3-92 raised the demand. If really the management would have stopped him to come on duty he would have raised these types of complaints and demand at a earlier date and in writing. I therefore find that there is no substance in the contention of the worker that he was visiting the officer for getting the work. It appears that he on his own accord left the work. Even though it is so the scheme has given him right to get reemployment. There is no bar to him. As this is not a case of retrenchment he is not entitled to any back wages. His juniors are admittedly employed. He has to be given seniority over his juniors while appointing him. As he given a temporary status he is entitled to get reemployment on its basis as and when work is available as per the scheme. But as I have come to the conclusion that the Tribunal has no jurisdiction to decide the matter the worker is not entitled to any of the reliefs. I return my findings on the issues accordingly and pass the following order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.

2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

का. आ. 1901.—औद्योगिक विवाद अधिनियम, 1947  
(1947 का 14 की धारा 17 के अनुसरण में केन्द्रीय सरकार द्वारा संचार के प्रवर्धन के संबंध में नियोजकों और

उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एन-40012/102/93-आई आर (डीयू)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1901.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-1996.

[No. L-40012/102/93-IR(DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

#### PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/50 of 1994

Employers in relation to the Management of Telecom District Manager, Kolhapur.

AND

Their Workmen

#### APPEARANCES :

For the Workmen : Mr. S. P. Kulkarni, Advocate.

For the Employer : Mr. P. M. Pradhan, Advocate.

Mumbai, the 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its order No. L-40012/102/93-IR(DU) dated 3-10-94 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the D/O the Telecom District Manager, Kolhapur and the S.D.O. Telegraphs, Kolhapur in stopping from services to Shri S. S. Patil R/o Shadole, Tal. Hatkanangle, Dist. Kolhapur w.e.f. 1-7-1981 and then even not giving him an opportunity to be taken back on duty as per the scheme framed by Director General, Telecom, New Delhi on 7-11-1989 for re-employment of casual Mazdoor is proper, legal and justified? If not, to what relief the workman is entitled to?"

2. Sambahaji Shankar Patil, the worker pleaded that he was employed as a Mazdoor on daily wages basis by S.D.O. phones, Kolhapur. He worked in under the control of the District Manager, Kolhapur. The worker pleaded that he worked for 782 days, from April 1976 to March 1979. He pleaded that he was not given work from March 1979.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice nor compensation at the time of retrenchment. He pleaded that the management has not maintained the correct record of attendance. It is averred that the Scheme dated 7-11-89 was not properly implemented by the management with a proper seniority list. It is pleaded that the re-engagements were given flouting the gradation list. It is averred that the management did not consider the

contents of the complaint (17-7-91) and the demand notices dated 8-3-91, 23-3-91, 30-4-91 and 11-4-91.

4. The worker prayed that he may be reinstated in service with full back wages and continuity w.e.f. date of retrenchment. He prayed for 18 per cent interest on the due amount. He also submitted that he may be awarded temporary status.

5. The management resisted the claim by the written statement. It is pleaded that the work diary under the S.D.O. Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification at the time of confirming temporary status or re-employment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or a compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is denied that the scheme was not properly implemented. It is emphatically denied that the re-engagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my findings thereon are as follows :

| Issues   | Findings   |
|--|--|
| 1. Whether the Tribunal has jurisdiction to try the reference ?                | No.  |
| 2. Whether the management stopped the worker from service ?                    | Does not survive. If survives, No.                                 |
| 3. Whether the management did not implement properly the scheme dated 7-11-82. | Does not survive. If survives the Scheme was properly implemented. |
| 4. What reliefs, if any the worker is entitled to ?                            | Does not survive. Not entitled to any reliefs.                     |

#### REASONS

8. It is not in dispute that the worker was appointed as a mazdoor on daily wages by the Sub-divisional Officer (P), Kolhapur. His work was of wireman on line.

9. The management did not raise an issue of jurisdiction in the written statement. But Mr. Pradhan the Learned Advocate for the management raised the issue at the time of the argument in view of the judgement between Sub-divisional Inspector of posts Vaikam and other Vs. Theyyam Joseph etc. 1996 (2) Supreme 487. That was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointment as a stop gap arrangement. There the question arose whether the appellant i.e. the post is an industry or not. Their Lordships observed "India as a sovereign, socialist, secular, democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain in law and order is no longer the concept of the State. Directive principles of state policy enjoin on the State diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duty is, of the state is to provide telecommunication service to the general public and an amenity, and so is one essential part of the sovereign functions of the state as a welfare state. It is not, therefore an industry."

10. On the basis of the ratio given in this authority Mr. Pradhan the Learned Advocate for the management argued that the Telecom is not an industry and naturally the court

has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the word telecommunication. It means communication over a distance by cable, telegraph, telephone or broadcasting. The work which is done by Telecom definitely falls with the purview of telecommunication.

11. Mr. Kulkarni, the Learned Advocate for the worker replying the argument of the management submitted that the authority has no application. According to him the extra departmental agent referred to in that authority is a holder of a civil post not like that of the workman. The civil posts are governed by the statutory civil rules and not like the mazdoors. Naturally they do not belong to the category of the worker as defined under the Industrial Disputes Act. He had objected on the point of the capacity of an extra departmental agent but had not given his reasons why telecom has to be termed as an industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if it is found that the above said finding is not correct I intend to discuss the remaining issues.

13. The scheme dated 7-11-89 came into effect from 1-10-89 onwards. It states existing vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be confirmed with temporary status till they are regularised. The above scheme was further modified/clarified and improved under different letters dated 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to be that :

- (a) All those casual mazdoors who are engaged before 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- (b) Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni the Learned Advocate for the workman that the scheme does not restrict the re-engagement of the worker who had not completed 240 days in a year or who are refrained from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does not mean that the scheme gives right for getting re-employment. What is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for re-employment on the basis of the scheme, has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. There is no specific suggestion that the management does not possess the record of a particular worker. Even for the sake of argument it is accepted that the record of the worker is not with the management, he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages, period from which they have worked, muster roll no, unit in which worked etc. No such record was produced before the authority.

17. Sambhaji Shankar Patil (Exhibit-5) the worker had affirmed that he worked from April 1976 to March 1979 as a workman. The total working days comes to 782. He produced a certificate (Ex-C2) showing that he worked for 154 days. He had not produced identity card, nor a diary nor any other piece of document showing that he worked for 782 days.

18. Yeshwant Rajaram Ghatge (Exhibit-7) was a line-man affirmed that Sambhaji was working with him as a mazdoor from March 1977 to October 1977. But he is not in position to tell how many days he worked with him. His evidence has helped the worker to show that he was a mazdoor and worked in the year 1977. It is not disputed by the management.

19. Gokakkar (Exhibit-10) admits the certificate (C1) issued by the management. He had also admitted that they do not have a record prior to 1980. This referred to this particular workman. The certificate (C1) speaks that the record of Sambhaji is not available at Kolhapur or also at Ratnagiri. He was asked to produce that record if he is in possession of the same. It is further mentioned that his absence from duty is for more than 10 years. He is not entitled to be re-employed. Leaving aside whether he is entitled for re-employment or not on that ground what is to be seen is whether he had completed 240 days. It tried to argue on behalf of the worker that as the record is not with the management the benefit has to be given to him. I am not inclined to accept this submission. It is not that the recent record is lost by the management and the worker is unnecessarily troubled. Here the conduct of the worker is to be seen. He had affirmed that he was not given work from March 1979. It is common knowledge that till March 1985 casual mazdoors were appointed by Telecom for getting work done. If really he would have gone to the office for getting the work there was no reason for the management to refuse him work. It appears that he on his own accord left the work for the reasons best known to him.

20. When the scheme came into existence it appears that the workman sent the applications dated 8-3-91, 23-3-91, 30-4-91, 11-4-91 and at last gave complaint on 17-7-94. This must be because he wants to take the benefit of the scheme. No doubt he would have got the benefit if he would have been in position to prove that he worked for more than 240 days. He could not produce the documentary evidence to that effect. As he was a casual mazdoor prima facie it appears to be that the management was not required to keep such a record. Under such circumstances it cannot be said that the workers services were terminated by the management and that the scheme was not properly implemented in respect of him. In the result I record my findings on the issues accordingly and pass the following Order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

वा. आ. 1902-—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार द्वारा संसार के प्रमुखतंत्र के संबद्ध नियोजकों और उनके कार्यकारियों के बीच, अनुबंध में निरूपित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, नं 2 सुधारे के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25 मई 1996 को प्राप्त हुआ था।

[संख्या एन-40012/152/93-गार्ड ऑफ (डी यू)]

बी. एम. डेविड, ईस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1902.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom and their workman, which was received by the Central Government on 28-5-1996.

[No. L-40012/152/93-IR (DU)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/59 of 1994

Employers in relation to the management of Telecom District Manager, Kolhapur.

AND

Their Workmen.

APPEARANCES :

For the Workmen.—Mr. S. P. Kulkarni, Advocate.

For the Employer.—Mr. P. M. Pradhan, Advocate.

Mumbai, dated the 18th April, 1996

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40012/152/93-IR(DU) dated 16-11-1994 had referred to the following Dispute for adjudication :—

“Whether the action of the Department of Telecom District Manager, Kolhapur and S.D.O.P. Kolhapur/Jachakanji in stopping from the services to Shri Anand Pandurang Kamble w.e.f. 1-10-1984 is proper and justified? If not, to what relief the workman is entitled to?”

2. Ananda Pandurang Kamble the worker pleaded that he was employed as a mazdoor on a daily wage basis by S.D.O. Phones, Kolhapur. He worked under the control of District Manager, Kolhapur. The worker pleaded that he worked for 495 days between April, 1982 to September 1984. The concerned authorities had given necessary certificates of these dates. It is averred that the worker is deemed to acquire a temporary status.

3. The workman asserted that the management refused to allow him to work under the pretext that no work is available with them. He contended that he worked for more than 240 days in a year with the management. It is averred that he was not given notice or compensation at the time of retrenchment. He pleaded that the management has not maintained the correct record of attendance. It is averred that the scheme dated 7-11-1989 was not properly implemented by the management with a proper seniority list. It is pleaded that reengagements were given flouting the gradation list. It is averred that the management did not consider the contents of the complaint (21-10-1991) and the demand notices dated 4-2-1991 and 26-8-1991.

4. The worker averred that he was given a call by S.D.O. Phones, Kolhapur on 5-9-1990 for reengagement as per the scheme of the department of telecommunications. The worker applied for the work day certificate on 24-12-1990. He was called upon to give details of work which he gave. He has claimed for reengagement which was rejected by the Opponent on the ground that he has not completed 240 days in 12 Calendar months.

5. The management resisted the claim by the written statement. It is pleaded that the work diary under the S.D.O. Phones, Kolhapur has been furnished to the workman with due attestation by Controlling Officer with a view to produce it as an evidence as the number of days put in for verification at the time of confirming temporary status or reemployment. The management denies the working days shown by the worker. It is averred that the worker left the job without intimation with his sweet will. Under such circumstances there was no retrenchment nor termination. The question of notice or compensation to the worker does not arise.

6. The management denied that its record is not properly maintained. It is averred that the seniority list was properly worked out by them and it was implemented. It is denied that the scheme was not properly implemented. It is emphatically denied that the reengagements are arbitrarily carried out. It is averred that no action of the management is contrary to the scheme. It is submitted that the worker is not entitled to any of the reliefs.

7. The issues that fall for my consideration and my findings thereon are as follows :

#### Issues

1. Whether the Tribunal has jurisdiction to try the reference?
2. Whether the management stopped the worker from services?
3. Whether the management did not implement properly the scheme dated 7-11-1989?
4. What reliefs, if any the worker is entitled to?

#### Findings

No.

Does not survive.

If survives, No.

Does not survive.

If survives, Yes.

Does not survive.

If survives as mentioned in the reasons.

#### REASONS

8. It is not in dispute that the worker was appointed as a mazdoor on daily wages by the Sub-Divisional Officer (P), Kolhapur. His work was of wireman on line.

9. The management did not raise an issue of jurisdiction in the written statement. But Mr. Pradhan the Learned Advocate for the management raised the issue at the time the argument in view of the judgement between sub-divisional Inspector of Posts Vaikam and other Vs. Theyyam Joseph etc. 1996 Supreme 487. That was a case wherein Theyyam came to be appointed as an extra departmental agent as a substitute without observing any formality of appointments as a stop gap arrangement. There the question arose whether the appellant i.e. the pos is an industry or not. Their Lordships observed “India as a sovereign, Socialist, secular, democratic republic has to establish an egalitarian social order under rule of law. The welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of State policy enjoin on the State diverse duties under Part IV of the constitution and the performance of the duties are constitutional functions. One of the duty is of the State is to provide telecommunication service to the general public and an amenity and so is one essential part of the sovereign functions of the state as a welfare state. It is not, therefore an industry.”

10. On the basis of the ratio given in this authority Mr. Pradhan the Learned Advocate for the management argued that the Telecom is not an industry and naturally the Tribunal has no jurisdiction to decide the matter. In the above stated authority his Lordships had used the word telecommunication. It means a communication over a distance by cable telegraph telephone or broadcasting. The work which is done by Telecom, definitely falls within the purview of telecommunication.

11. Mr. Kulkarni, the Learned Advocate for the worker while replying the argument of the management submitted that the authority has no application. According to him the extra departmental agent referred to in that authority is a holder of civil post not like that of the workman. The civil posts are governed by the statutory civil rules and not like mazdoors. Naturally they do not belong to the category of the worker as defined under the Industrial Disputes Act. He had objected on the point of the capacity of extra departmental agent but had not given reasons why Telecom has to be termed as an Industry even though what is observed by Their Lordships in the above said case. In view of the ratio given in the above said authority Telecom is not an Industry. Hence the Tribunal has no jurisdiction to decide the reference.

12. After coming to the above said conclusion really speaking there is no need to answer the remaining issues. But if it is found that the above said finding is not correct I intend to discuss the remaining issues.

13. The scheme dtd. 7-11-89 came into effect from 1-10-89 onwards. It states existing vacancies to be filled exclusively by casual labourers by regularisation. The eligibility is as per the recruitment rules. The casual labourers are to be confirmed with temporary status till they are regularised. The above scheme was further modified clarified and improved under different letters dt. 7-6-90, 29-8-90 and 15-1-91. Sum and substance of the scheme and the improvements thereafter can be said to be that :

- (a) All those casual mazdoors who were engaged before 30-3-85 and who have completed 240 days without any consideration of a break due to departmental or own reasons.
- (b) Those who were engaged before 30-3-85 but could not complete continuous service of 240 days before 30-3-85 however did so after that date during any 12 months.

It is observed that break due to absence without limit could be condoned by Telecom District Engineer.

14. Though it was enjoined upon them to issue calls by registered acknowledgement due the same was not done by the management. There is no record to show that these workers were really called for submitting the necessary evidence before the management to establish their case.

15. It is tried to argue by Mr. Kulkarni the Learned Advocate for the workman that the scheme does not restrict the re-engagement of the worker who had not completed 240 days in a year or who are refrained from doing the work or left the services on their own. No doubt there cannot be any restriction for the management for not engaging the worker who complies their rules of employment. But that does no mean that the scheme gives right for getting re-employment. What is tried to argue by the Learned Advocate is that as they have worked for some days they are entitled for re-employment on the basis of the scheme has no merit.

16. Gokakkar admits that they do not have the record of attendance particularly prior to 1980. But so far as these workers are concerned their case does not appear to be that they were employed prior to 1980. There is no specific suggestion that the management does not possess the record of a particular worker. Even for the sake of argument it is accepted that the record of the worker is not with the management he was not precluded from producing secondary evidence. It was accepted that identity cards are to be given to the casual workers. The cards should contain disbursement of wages period from which they have worked, muster roll No., unit in which worked etc. No such record was produced before the authority.

17. Ananda Pandurang Kamble (Exhibit-5) affirmed that he worked for 495 days from April '82 to September 1984. Gokakkar (exhibit-7) the witness for the management denied it. Ananda had produced the certificates (E1, E2, E3) given by the management clearly showing that he worked for 248 days. In cross examination Gokakkar admits in categorical term that Ananda had worked for more than 240 days from April '82 to March 83, i.e. in one

year. As this is so he had complied with the requisite conditions for getting a temporary status as contemplated under the scheme. Ananda made representations to the management for getting him re-employment on the basis of the scheme. But his requests was rejected. In other words it has to be said the management did not follow the scheme properly.

18. Ananda affirmed that he was not given work from October 84. Gokakkar denied it stating that he was having other work to do therefore he stopped going to work as he was getting less wages from the management. This appears to be correct. It is common knowledge that till the restrictions came that is before March, 1985 the telecom used to appoint mazdoors for getting work done. But after the restrictions they stopped employing mazdoors as casual labourers. As Ananda was working there, there was no reason for the management to ask him not to come to the work unless the work would have been over. It is not the case of Ananda that the work was over. Therefore, he was not given any work. It can be further seen that from October 84 till the first application he made nowhere in 1990 he had not taken any steps. The period is of six years. That itself goes to show that he must have never approached to the management for getting job. Otherwise there would have been a documentary evidence to the effect that he applied for the job. The documents which are produced on the record on behalf of the worker clearly goes to show that he is aware of making representation in writing. He decided to get the benefit of the scheme and therefore had made these contentions. I therefore find that he was not terminated by the management. But at the same time in view of the scheme as he has completed 240 days in a year he is entitled for re-employment. The management's action of rejecting his claim is contrary to the scheme. It is admitted position that junior persons such as Jadhav was appointed by the management. The worker is entitled to reappointment, on the basis of the scheme and his seniority is above the place of his juniors is shown in the list. He has to be given a status of temporary worker. But as I have come to the conclusion that the Tribunal has no jurisdiction to adjudicate the reference this worker is not entitled to any of the reliefs. In the result I record my findings on the issues accordingly and pass the following order :

#### ORDER

1. The Tribunal has no jurisdiction to adjudicate the reference.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 31 मई, 1996

का. आ. 1903. औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 18 के अनुसरण में केन्द्रीय सरकार आंध्र बैंक के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण 1, हैदराबाद के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-96 को प्राप्त हुआ था।

[संख्या एन-12012/377/94-आई आर (बी-2)]

के. बी. डण्णी, बैंक अधिकारी

New Delhi, the 31st May, 1996

S.O. 1903.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, I, Hyderabad as shown in the Annexure in the Industrial Dispute between the em-

ployers in relation to the management of Andhra Bank and their workmen, which was received by the Central Government on 30-5-1996.

[No. L-12012/377/94-IR (B-II)]

K. V. B. UNNY, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I, HYDERABAD

#### PRESENT :

Sri A. Hanumanthu, M.A., LL.B.,  
Industrial Tribunal-I, Hyderabad  
Dated : 20th day of April, 1996  
Industrial Dispute No. 53 of 1995

#### BETWEEN

Smt. P. Varalakshmi,  
C/o Andhra Bank  
Employees Federation,  
Andhra Bank  
Seetaramapuram Branch,  
Vijayawada-520002. —Petitioner.

#### AND

The Regional Manager,  
Andhra Bank Regional Office,  
Kakinada,  
East Godavari District. A.P. —Respondent.

#### APPEARANCES :

Sri B. Ashok Kumar Representative for Petitioner.  
M/s. K. Srinivasa Murthy and G. Sudha Advocates for the Respondent.

#### AWARD

This is a reference made by Government of India Ministry of Labour, New Delhi by its Order No. L-12012/377/94-IR(B-II) dated 15-5-1995 under Section 10(1) (d) and (2A) of Industrial Dispute Act, 1947 for adjudication of Industrial Dispute mentioned in its schedule which reads as follows :

“Whether the action of the management of Andhra Bank, Kakinada in terminating the service of Smt. P. Varalakshmi, Part-time sweeper w.e.f. 29-11-93 is legal and justified ? If not, what relief is the said workmen entitled to ?”

The said reference has been taken on file as I.D. No. 53/95.

2. After receipt of notices issued by this Tribunal both the parties have put in their appearance through their counsel. The petitioner filed a Claim Statement on 9-11-1995 and the matter was posted from time to time for counter of the Respondent.

3. On 3-2-96 when the matter was called for filing the Counter of Respondent, the Respondent submitted that talks of compromise were going on and wanted time to report the settlement. Hence the matter was posted to 27-2-1996. But both the parties reported that the settlement could not be effect, hence the

matter was posted from time to time for Counter of the Management. On 19-3-1996 both sides represented that the matter has been compromised and for reporting settlement the matter was posted to 4-4-1996. On that day at request of the both parties the matter was again posted to 20-4-1996.

4. On 20-4-1996 both the parties along with their Counsel are present and filed a Joint Memo. The terms of compromise are read over and explained to them and they admitted the same to be correct. Hence compromise is recorded.

5. In view of the settlement, there is no need to adjudicate upon any issues by this Tribunal as the parties have entered at a settlement in respect of all the issues involved in the present I.D. No. 53 of 1995 out of Court and in view of keeping peace and harmony in the industry and to keep good relationship between the workman and the Management.

6. In the result, Award is passed in terms of settlement entered into between the parties. The settlement deed is ordered to be appended to this Award.

Typed to my dictation, given under my hand and the seal of this Tribunal this the 20th day of April, 1996.

A. HANUMANTHU, Industrial Tribunal-I

Appendix of Evidence

NIL

BEFORE THE HON'BLE INDUSTRIAL  
TRIBUNAL-I, HYDERABAD

I.D. No. 53 of 1995

#### BETWEEN

P. Varalakshmi,  
C/o. General Secretary,  
Andhra Bank Employees Federation,  
Hyderabad. —Petitioner

#### AND

Regional Manager,  
Andhra Bank,  
Regional Office,  
Kakinada. —Respondent

#### JOINT MEMO FILED BY THE PETITIONER AND RESPONDENT

It is submitted that Respondent Bank has regularised the services of the Petitioner as Part Time Sweeper on 1/3rd of the Scale Wages applicable to Subordinate Staff with effect from 27-2-1996. In view of her regularisation as part time Sweeper on 1/3rd wages she has agreed to forego all her claims for backwages and other service benefits from the date of her initial appointment till 26-2-1996.

Accordingly she is foregoing/withdrawing all her claims as prayed for in this Industrial Dispute i.e., regularisation from the date of original appointment, backwages and other attendant benefits like Bonus, increments, leave and also continuity of service.

Hence, it is prayed that the Hon'ble Tribunal may may be pleased to close the dispute as settled out of court and pass such other and further orders as the Hon'ble Tribunal may deem fit and necessary in the interest of justice.

# PETITIONER

(Sd-)

(B. Ashok Kumar)  
President, Andhra Bank  
Employees Federation (Regd.)  
& Authorised Representative  
the Petitioner.

Be pleased to Consider.

Sd/-

Advocate for Respondent  
(P. S. SUBBA RAO)  
Deputy Chief Officer,  
Andhra Bank,  
Personnel Department,  
Head Office, Hyderabad.

नई दिल्ली, 31 मई, 1996

का. अ. 1904.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ईस्टर्न बंकरर्स लि. के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[सं. एल-31011/23/91-आई आर (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1904.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Eastern Bunkers Ltd. and their workmen, which was received by the Central Government on the 28-5-1996.

[No. L-31011/23/91-IR(Misc)]

B. M. DAVID, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

## PRESENT :

Shri Justice R. S. Verma,  
Presiding Officer

Reference No. CGIT-1/48 of 1992

## PARTIES :

Employers in relation to the management of M/s.  
Eastern Bunkers Ltd.  
1475 GI/96—6

AND

Their Workmen

## APPEARANCES :

For the Management : Shri S. S. Sayyed, Advocate.

For the Workman : Shri P. K. Shatma, Shri R. R. Upadhyaya, Advocate and Mr. M. B. Anchan, Advocate for individual workmen.

INDUSTRY : Ports & Docks  
STATE : Maharashtra

Mumbai, dated the 17th day of May, 1996

## AWARD

Shri P. K. Sharma for union alongwith Shri R. R. Upadhyaya Advocate. Shri M. B. Anchan Advocate for individual workman. Shri S. S. Sayyed, Advocate for management.

Shri P. K. Sharma has stated that the union is no longer interested in espousing the dispute and withdraws its claim. Shri S. S. Sayyed Advocate has no objection.

However, Shri M. B. Anchan for workmen contends that he may be allowed to prosecute the claim. This is opposed by the union as also by management.

I have heard the parties.

The appropriate Government referred the dispute to this Tribunal in the following terms.

"Whether the Notice of the Bombay Transport and Dock Workers' Union, Bombay as per Annexure-I on the Management of Messers Eastern Bunkers L'd. Bombay demanding absorption/permanency in the Company is justified?"

A bare reading of the reference to show that it does not refer any individual dispute of any particular workman. When it is so and the union espousing the case in its wisdom withdraw the claim, the individual workmen are not entitled to prosecute the claim and same cannot be adjudicated upon when the union withdraws the same. The workmen are liberty to pursue that legal remedy before the appropriate forum.

These does not survive any dispute between the union and the management and no dispute award is made. In the circumstances of the case parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, 31 मई, 1996

का. अ. 1905.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विनावापटनम पोर्ट ट्रस्ट के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखा-पटनम के रंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एन-34012/1/91-आई आर (विवाद)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1905.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workmen, which was received by the Central Government on 28-5-1996.

[No. L-34012/1/91-IR (Misc)]  
B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE COURT OF INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Smt. G. Jaishree, B.Sc., LL.M., Chairman and Presiding Officer.

Monday, the 13th day of May, 1996

I. T. I. D. No. 17/92 (Central)

BETWEEN

N. Govinda Rao, Operator Gr-II,  
C/o The General Secretary,  
Port and Dock Employees Association,  
Maharajipeta,  
Visakhapatnam-530002 .. Workman

AND

The Chairman,  
Visakhapatnam Port Trust,  
Visakhapatnam .. Management

This dispute coming on for final hearing before me in the presence of the petitioner in person and the management in person, upon hearing the arguments of both sides the court passed the following :

#### AWARD

1. In this case reference is made by the Government of India in respect of the dispute existing between the management of Visakhapatnam Port Trust and their workmen in the following terms :

"Whether the action of the management of Visakhapatnam Port Trust is justified in reducing the pay of Shri N. Govinda Rao, Operator Gr-II by 2 stages for a period of one year? If not to what relief the workman is entitled?"

2. The General Secretary of Port and Dock Employees Association filed claim statement challenging the action of the Visakhapatnam Port Trust imposing punishment on the workman by name N. Govinda Rao, Operator Grade-II by reducing his pay by two stages for a period of one year. The substance of the claim petition and the grounds of challenge in brief are that the findings of the enquiry officer are vague and on assumptions and presumptions, and not on evidence. It is stated that the workman was not at all responsible for the damage caused to the conveyor belt.

3. In the counter statement filed by the respondent management the action is justified stating that the damage caused is due to the nonstopping of S-6 conveyor immediately by Sri N. Govinda Rao on the failure of S6 tail and diversion

pulley. It is stated that the enquiry officer gave his findings basing on the evidence produced before him and the same cannot be challenged. It is pleaded that the penalty imposed is not excessive and the same is proportionate to the gravity of the misconduct.

4. On 14-12-93, it was represented for the workman that he is not challenging the validity of domestic enquiry. Accordingly, the I. D. was posted for hearing u/s 11-A. Heard arguments of both sides. No documents are marked for the workman but the management got marked Exs. M-1 to M-8, which is the enquiry record, by consent.

5. The points that arise for consideration are :

- (1) Whether the findings of the enquiry officer are valid and sustainable?
- (2) Whether the punishment imposed on the workman is legal and justified?
- (3) To what relief is the petitioner entitled?

6. Point No. 1.—Ex. M-1 contains the charge levelled against the workman as follows :

"Sri N. Govinda Rao while functioning as Operator Gr-II in O.H.C. was posted at S-6 tail end conveyor of area 7 in 3rd shift on 25-8-88 from 22.00 hrs. to 6.00 hrs. on 26-8-1988. During the shift, at about 1.35 hrs. on 26-8-88, when fine ore loading into ship M. V. Pacific Jasmine was under the progress, length of about 1600 mtrs. of S-6 conveyor belt was severely damaged, which led to shut down of the plant. This was due to non-stopping of the S-6 conveyor immediately on failure of the S-6 Tail and diversion pulley.

Sri N. Govinda Rao, Operator Gr-II posted at S-6 Tail end conveyor of area 7 who was required to monitor the system carefully had failed to observe the failure of the pulley and to stop the S-6 conveyor immediately. He allowed the belt to run for some time after the failure of the pulley and stopped the belt by about 1.35 hrs. on 26-8-88, which caused the extensive damage to S-6 conveyor belt. This incident occurred due to his gross negligence and utter carelessness in performing his legitimate duties .... and exhibited gross negligence and carelessness in performing his legitimate duties and failed to maintain absolute devotion to duty as required. He, therefore, violated Regulation No. 3 of V.P.E.s (C) Regulations, 1864."

7. The enquiry officer appointed by the management submitted his report along with the statements recorded by him and the documents marked under Ex. M-3, before the enquiry officer, the management examined the plant superintendent who made the report as SW-1 and the Executive Engineer (Electrical), OHC, who conducted preliminary enquiry, as SW-2. The report made by SW-1 is referred as SE-1. The enquiry officer also recorded the statement of the delinquent employee Sri N. Govinda Rao and also examined the defence witness produced by him as DW-1. He gave his report holding the charge as proved against the delinquent.

8. It is strenuously contended for the workman that there was no evidence before the enquiry officer to fix the responsibility of the damage of the conveyor belt on the workman. It is contended that the report of the enquiry officer is without any basis and it is based on assumptions and presumptions and not on the evidence. A perusal of the report of the enquiry officer and the statement of witness recorded by him shows that there is considerable force in this contention for the workman. The allegation is that the conveyor belt was damaged to the extent of 160 mtrs. as the delinquent who was in the third shift during night time between 10.00 pm and 6.00 am, on the next day at S-6 tail end, did not stop the same immediately and there was delay in stopping the same and thus, he is guilty of gross negligence of his duty. There is no discussion of the evidence by the enquiry officer in detail but he merely refers to the statements of SW-1 and SW-2 and observed that as per their statements there was possibility to stop the conveyor more early than the time taken in this particular incident and if the operator is vigilant

and careful in performance his duties and if the operator stopped the belt in time, the damage would have been limited to 300 to 400 mtrs. length. He further opines that the defence witness could not give any proof regarding the perfectness on the part of the charged officer. There is no discussion in the enquiry officers report how perfectly and human being in the place of the delinquent herein could have acted and how the delinquent had not shown that much perfectness. Further, the enquiry officer brushed aside as irrelevant the matter of posting of operators, which is the most relevant factor in order to assess the care taken by the delinquent in preventing the damage, as the defence of the delinquent was that less staff was posted where it required more operators for operating the conveyor belt. Strangely, the enquiry officer holds that defence could not elicit proper information to disprove the charges. Thus, he shifts the burden to the delinquent to disprove the charges and acts on assumptions, as rightly contended for the workman. A perusal of the report clearly shows that the enquiry officer proceeded to treat the case in a wrong perspective and consequently he gave findings which are wholly misconceived and without any evidence. The enquiry officer committed error in not taking into consideration the relevant factors and the evidence on record at all and proceeding on the presumptions without support of the evidence.

9. Admittedly, delinquent was on duty in the night shift from 10.00 pm to 6.00 am on the next day at S-6 conveyor tail end. The report under SEI records the longitudinal cut of S-6 conveyor belt to a length of about 1600 mtrs. from Eastern edge. The delinquent produced DW-1 Sri A. K. Benerji, Operator Gr-II who was on duty in the night shift in that night at head end of S-6 conveyor. The statement of the delinquent and that of DW-1 goes to show that the DW-1 and the delinquent herein were on duty in the same shift and DW-1 was at head end and the delinquent at the tail end of S-6 conveyor belt. It is seen that the duty of DW-1 is to monitor the conveyor from head end to the middle and the duty of the delinquent is to monitor the said conveyor from tail end to the middle. Thus, the monitoring of S-6 conveyor was to be done by this two persons only. Admittedly, it was the night time and the statement of DW-1 is that he met the delinquent at about 1.00 O'clock in the night and S-6 conveyor was stopped at about 1.30 hrs. by Sri N. Govinda Rao DW-1 states in his examination by the enquiry officer that he met the delinquent on west side gallery before the break down. Thus, the delinquent was on the west side gallery whereas the conveyor belt was quite on the eastern side and it is obvious that the delinquent could not notice the same within short time. Further SW-1 and SW-2 both admit in their cross-examination that previously four operators Grade II and were posted at S-6 conveyor and one Operator Gr-II was posted at TT-7 and thus, there were 5 operators Gr-II for monitoring S-6 conveyor. They admitted that from 1984 onwards only two operators were posted at S-6 conveyor and TT-7 operator was removed. Thus, the number of required operators were not posted for monitoring S-6 conveyor and the only two operators in the place of 5 operators, cannot be expected to do the work of 5 persons and monitoring the conveyor with so much efficiency which was possible when 5 operators were working. It is not the case of the management that the workman was sleeping at that time and not performing his duty. The evidence of DW-1 which is not challenged in this respect shows that the delinquent was performing his duty by taking precaution at the conveyor and the case of the management is only that he could have stopped the conveyor earlier than he did so. SW-2 does not give any satisfactory answer for reducing the operators and he merely says that posting of an operator is a policy decision. Thus, the management cannot justify its action for reducing the staff without assessing the requirement and then blame the workman like delinquent for not showing perfection in the work which is to be done by more number of operators. Admittedly, the ship was being loaded and SW-2 admits in his cross-examination that when loading of fines is going on, no sounds can be heard, thus the delinquent cannot be blamed for not hearing the abnormal sounds if any which were produced on breaking of the tail shaft. As is evident from the report under SEI and as admitted by SWs-1 and 2, the damage to the conveyor belt was due to the premature failure of the S-6 tail and diversion pulley and the same required replacement. There is no record to show that the workman was cautioned about

any possibility of such failure of the machine. SW-1 further reveals that this diversion pulley was installed only on 24-6-88 i.e. only two months earlier to the incident and it is highly impossible that any operator on duty will expect failure of the diversion pulley which was installed so recently. SW-1 admits in his cross-examination that the time taken in observing the belt and coming to the east side depends upon the location where the operator is. SW-2 admits in his cross-examination that after breaking the pulley and the damage strated, the belt travelled for about 8 minutes. Thus, the delay attributed is only 8 minutes. Though SW-2 states that the belt will take minimum 10 minutes time to come into contact with bearing housing before starting the damage, he does not say whether the operator who is at a distance will be able to observe the same. SW-1 further admits in his cross-examination that if the operator is there at S-6 tail end (TT-7), the extent of damage will not be that much. SW-1 states in his cross-examination that the operator posted for S-6 conveyor tail end and S-4 conveyor head end are expected to look after the equipment of the concerned conveyor at TT-7. But he does not deny that the concerned operator was on leave for the S-4 head end. Thus, sufficient operators were not posted as per sanction at S-6 conveyor and the delinquent cannot be blamed for not showing the imaginary perfectness in performing his duty. The delinquent cannot be asked to do what is humanly not possible and blamed for not showing perfectness. On an examination by the enquiry officer, the delinquent clearly stated that he was coming from S-6 conveyor middle towards TT-7 by observing the Top and return carriers and after reaching TT-7 area, he noticed some abnormal sounds and smoke from TT-7 area and immediately he stopped the S-6 conveyor by operating pulley chord switch which was located at TT-7. He stated that then he went to the rear side of TT-7 at the east side of the gallery and observed the break down of the conveyor belt as well as pulley. Thus, the entire record shows that the enquiry officer did not consider all these relevant factors but only proceeded on a misconception that the delinquent failed to disprove the charges. He blindly referred to the statements made by SWs-1 and 2 without referring to their relevant admissions in their cross-examination. In all the circumstances, I find the findings of the enquiry officer that the charge is proved against the delinquent, is perverse, without any evidence to support the same and is wholly based on presumptions and misconceptions and not on proved fact. Thus, I come to the conclusion that the finding of the enquiry officer is not legal and sustainable and it is liable to be set aside. I hold on this point accordingly.

10. Point No. 2—In view of my findings on point No. 1 above that the finding of the enquiry officer is not sustainable in law, I hold on this point that the punishment imposed on the delinquent based on the illegal finding of the enquiry officer, is not justified and the same is liable to be set aside.

11. Point No. 3—In view of my findings on point No. 1 and 2 above, the workman is entitled to claim that the punishment imposed on him is to be set aside and accordingly he is entitled to recover any amounts which were not paid on account of the punishment of reducing his pay by two stages for a period of one year.

12. In the result, the finding of the enquiry officer holding the charge proved against the delinquent herein is set aside and accordingly the punishment imposed by the management of Visakhapatnam Port Trust is hold not justified in reducing the pay of the workman herein by two stages for a period of one year. Consequently, the reference is answered and award is passed in the following terms.

"The action of the management of Visakhapatnam Port Trust is not justified in reducing the pay of Sri N. Govinda Rao, operator Gr-II by two stages for a period of one year and the workman is entitled to recover the difference pay on account of the punishment with all attendant benefits from the management. Time for payment of the difference amount is 3 months from the date of receipt of this Award by the management."

Dictated to steno transcribed by her given under my hand and seal of the court this the 13th day of May, 1996.

G. JAISHREE, Chairman and Presiding Officer

Appendix of Evidence in I. T. I. D. No. 17/92 (C)

None of the witnesses are examined on either side.

Documents marked for workman Nil.

Documents marked for management

- Ex. M-1—Memorandum of Charges issued to the petitioner.
- Ex. M-2—Explanation to memorandum of charges.
- Ex. M-3—Enquiry report with statements.
- Ex. M-4/5-5-90—Show cause notice.
- Ex. M-5—Reply to the show cause notice.
- Ex. M-6—Proceedings issued by EME/Vsp. Port Trust.
- Ex. M-7—Appeal addressed to Chairman, VPT.
- Ex. M-8/20-12-90—Proceedings of the appellate authority.

नई दिल्ली, 31 मई, 1996

का.आ. 1906.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स जे. एफ. कपाडिया एण्ड कम्पनी (प्रा.) लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-31012/12/93-आईआर(विविध)]

बी. एम. डेविड, डैस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1906.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. J. F. Kapadia and Co. (P) Ltd. and their workmen, which was received by the Central Government on 28-5-1996.

[No. L-31012/12/93-IR (Misc)]

B. M. DAVID, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-45 of 1994

PARTIES :

Employers in relation to the Management of M/s. J. F. Kapadia and Co. (P) Ltd.

AND

Their workmen.

APPEARANCES :

For the Management—Shri R. R. Upadhyay, Advocate.

For the Workman—No appearance.

INDUSTRY : Clearing and Forwarding

STATE : Maharashtra

Mumbai, the 17th day of May, 1996

#### AWARD

Shri R. R. Upadhyay—for management.  
None—for the Union.

On 22-2-96, the management submitted that the union had not supplied it with copy of the claim and the accompanying documents. Since none was present on behalf of the union, I directed a notice to be issued to the union asking it to supply the said copies to the management. This notice was duly served and still the union has not cared to supply the copies to the management, as stated by the counsel for the management.

Not only this, the union has not chosen to appear on the last date i.e. 4-4-1996, nor it has chosen to appear today. Hence, I have no option but to proceed *ex parte* against the union.

The appropriate Government referred the following dispute for adjudication to the Tribunal :

"Whether the action of the management of M/s. J. F. Kapadia and Co. Pvt. Ltd. in closing down the establishment w.e.f. 19-11-92 is justified? Whether the demand of 32 workmen as per annexure for reinstatement in service after accepting retrenchment compensation is justified? If not, to what relief the workmen are entitled to?"

The union filed its written statement of claim on 23-2-95. Yet, as stated above, it did not supply the management with the copy of the claim.

I have gone through the claim. It clearly states that a closure has been effected. Of course, it says that closure is bad. However, it is not the case of the union that it was not a closure but was lockout.

Once closure has been effected and closure of the establishment is an accomplished fact, then this Tribunal can not go into the justifiability or otherwise of the closure and the dispute could not have been referred at all.

Once the workmen were given a marching order due to closure, on payment of compensation, they cannot challenge the closure.

Actually, the reference is incompetent and is rejected as such.

R. S. VERMA, Presiding Officer

नई दिल्ली, 31 मई, 1996

का.आ. 1907.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स रोखिनसन्स स्टीवेडीस के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-31011/22/91-आईआर(विविध)]

बी.एम. डेविड, डैस्क अधिकारी

New Delhi, the 31st May, 1996

S.O. 1907.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure,

in the industrial dispute between the employers in relation to the management of M/s. Robinsons Stevedores and their workmen, which was received by the Central Government on 28-5-1996.

[No. L-31011/22/91-IR (Misc)]

B. M. DAVID, Desk Officer

# ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/56 of 1992

PARTIES :

Employers in relation to the management of M/s. Robinsons Stevedores, Bombay

AND

Their workmen.

APPEARANCES :

For the management—Shri S. S. Sayyed, Advocate.

For the workmen—Shri P. K. Sharma.

Shri R. R. Upadhyaya, Advocate and  
Shri M. B. Anchan, Advocate for  
individual workman.

INDUSTRY : Ports and Docks STATE : Maharashtra  
Mumbai, the 17th day of May, 1996

# AWARD

Shri P. K. Sharma for union along with Shri R. R. Upadhyaya Advocate. Shri M. B. Anchan for individual workman. Shri S. S. Sayyed Advocate for management.

Shri P. K. Sharma has stated that the union is no longer interested in espousing the dispute and withdraws its claim. Shri S. S. Sayyed has no objection.

However, Shri M. B. Anchan for workmen contends that he may be allowed to prosecute the claim. This is opposed by the union as also by management.

I have heard the parties. The appropriate Government referred the dispute to this Tribunal in the following terms :—

“Whether the Notice of the Bombay Transport and Dock Workers’ Union, Bombay as per Annexure-I on the management of Messers Robinsons Stevedores, Bombay demanding absorption/permanency in the Company is justified? If so, to what relief the workmen are entitled to?”

A bare reading of the reference goes to show that it does not refer any individual dispute of any particular workmen. When it is so and the union espousing the cause in its wisdom withdrawing the claim, the individual workmen are not entitled to prosecute the claim and same can not be adjudicated upon when the union withdraws the same. The workmen are at liberty to pursue their legal remedy before the appropriate forum.

There does not survive any dispute between the union and the management and no dispute award is made. In the circumstances of the case parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, जून, 3 1996

का.आ. 1908.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड बैंक आफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या 12011/95/87-डी 2ए/आई आर (बी-2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 3rd June, 1996

S.O. 1908.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of United Bank of India and their workmen, which was received by the Central Government on 31-5-1996.

[No. L-12011/95/87-D.II(A)/IR (B-II)]

BRAJ MOHAN, Desk Officer

# ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
CUM-LABOUR COURT PANDU NAGAR DEOKI  
PALACE ROAD, KANPUR

Industrial Dispute No. 113 of 1988

Regional Secretary,

United Bank of India Shramik Karamchhari Samity,  
28/93 Birhana Road, Kanpur.

AND

Regional Manager,

United Bank of India Central Region 4-B  
Habibulla Estate, Hazratganj, Lucknow.

# AWARD

1. Central Government, Ministry of Labour, vide its Notification No. L-12012/95/87-D.II (A) dated 2-9-88 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of United Bank of India in withdrawing the facility of financial advances and overdrafts is justified? If not to what relief are the workmen entitled?

2. There is no denying of the fact that the opposite Party United Bank of India had provided facility of overdraft at lower rate of interest to their employees since 1974. The same was withdrawn by circular No. CPP-1/ADV/6685 dated 12-7-85. It is alleged in the claim statement that this facility was extended as a result of agreement arising from mutual discussion of both the parties. It is alleged that the same could not be withdrawn as it amounts to change in condition of service as envisaged in Section 9-A of I. D. Act. Hence this change in condition of service by the above mentioned circular is bad in law.

3. The opposite party has filed reply in which it is alleged that there was no such settlement. It was discretion exercised by the management and the management is within its right to withdraw this facility as it is not

part of service condition. By way of amendment it is further alleged that facility of overdraft is not provided in the bipartite settlement or under any award. It is not the condition service at all.

4. In the rejoinder the Union has reiterated the facts given in the claim statement.

5. In support of their case, the Union has filed the affidavit of their Regional Secretary R. K. Shukla who has sworn that this facility of overdraft was given to the employees after mutual discussion between the parties.

6. In his cross examination he has conceded that it was not a part of service condition. Opposite party bank has not adduced any evidence in spite of opportunity having been afforded to them.

7. Section 9-A of I. D. Act, lays down that condition of service of a workman cannot be altered by the management without giving notice of the same. There is IV schedule attached with the Industrial Dispute in which particulars of service conditions have been given. Item No. 8 of this 4th schedule relates to withdrawal of any customary concession or privilege or change in usage. It is admitted to both the parties that this overdraft facility was extended in 1974. In my opinion, it can also be termed as concession. Since it was being given for about 14 to 15 years continuously its withdrawal should be treated as customary as well. Hence I treat it as customary concession. I do not find any force in the contention of the opposite party that it is simple matter of dealing a customer of the bank. Apart from this there is un rebutted evidence of R. K. Shukla that these concession was given after mutual discussion. In other words it was a result of mutual agreement. There is no rebuttal of this evidence hence this should be accepted. Hence if a facility which was the out come of agreement is withdrawn it would certainly amount to change in service condition as envisaged under Section 9-A of I. D. Act. Hence I upheld the contention of petitioner union and held that there has been change in service condition in breach of Section 9-A of I. D. Act.

8. Hence, my answer to the first part of reference is in negative. Consequently the union is held entitled to get the facility of concessional advance as overdraft as was being enjoyed by them before the issuance of circular dated 12-7-85

9. Reference is answered accordingly.

Dated : 9-3-1996

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जून, 1996

का.आ. 1909.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल.आई.सी. आफ इंडिया, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या एल-17012/135/90-आई आर (बी-2)]

ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 3rd June, 1996

S.O. 1909.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to

to the management of Union Bank of India and their workman received by the Central Government on 31-5-96.

[No. L-17012/135/90-IR (B-II)]

BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT DEOKI PALACE ROAD  
PANDU NAGAR KANPUR

Industrial Dispute No. 21 of 1991

Central Secretary,  
Central Zone Life Insurance Employees,  
Association 70/D Sujatganj Kanpur.

#### AND

Senior Divisional Manager,  
Life Insurance Corporation of,  
India Divisional Office,  
16/98 Mahatma Gandhi Marg,  
Kanpur.

#### AWARD

1. Central Government Ministry of Labour New Delhi has referred the following dispute vide its Notification No. L17012/135/90-IR/B-2 dated 15-3-91 for adjudication to this Tribunal :—

"Whether the action of the Management of Life Insurance Corporation of India, Mall Road, Kanpur in termination the service of Sh. Rajiv Kumar S/o Sh. Babu Singh w.e.f. 26-8-88 and not giving the typist allowance w.e.f. 1-12-85 to 25-8-88 is justified? If not, to what relief is the workman entitled?

2. It is not necessary to give the full facts of the case. As on 2-5-96 the Au. Rep. of the workman has moved an application that he had sent him various information but the workman has not turned up, as such he seems to be not interested in the case. He has therefore prayed that the case may be treated as withdrawn and accordingly award be given in the instant case.

3. In view of the above my answer to the reference is in the affirmative. Consequently it is held that the concerned workman is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जून, 1996

का.आ. 1910.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनिजन बैंक आफ इंडिया, के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या एल-12012/30/89-डी 2ए/आई आर (बी-2)]

ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 3rd June, 1996

S.O. 1910.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to

to the management of Union Bank of India and their workmen, which was received by the Central Government on 31-5-96.

[No. L-12012/30/89-D.II-A/IR (B.II)]  
BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-1 ABOVE COURT DEOKI PALACE ROAD  
PANDU NAGAR KANPUR

Industrial Dispute No. 183 of 1989

In the matter of dispute between :  
Jai Prakash S/o R. A. Vaishya,  
116/11-A South Malaka Allahabad,

AND

Regional Manager,  
Union Bank of India,  
Regional Office Pandu Nagar,  
Kanpur.

## AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12012/30/89-D-2(A) dt. 8-8-89, has referred the following dispute for adjudication to this Tribunal :-

Whether the action of the management of Union Bank of India in terminating the services of Sri Jai Prakash and not absorbing him in bank's permanent service is justified? If not to what relief is the workman entitled?

2. The concerned workman Jai Prakash in his claim statement has alleged that he was a water boy w.e.f. 14-4-88 in the Sheosharan Lal Road Chowk Branch of Allahabad of opposite party Union Bank of India. He continued to work for 724 days upto 11-4-87. His services were terminated without payment of retrenchment compensation and notice pay.

3. The opposite party has filed written statement in which it is alleged that the concerned workman was never engaged as a water boy. Instead he was an outsider through whom bucket of water was purchased. In other words on contract basis the concerned workman was supplying water to the bank for which payment was made through vouchers. He was never a member of sub-staff. As he was not an employee of the bank there is no question of termination of his services.

4. In the rejoinder the above mentioned fact has been denied by the concerned workman.

5. The only point which needs consideration is as to whether the concerned workman was actually engaged as water boy. In support of this version the concerned workman has filed his affidavit, in which he has sworn the allegations made in the claim statement. However, he has not specifically denied that he was not given contract for supply of water on charges. In his cross examination he has admitted that he was not given appointment letter. His job was to bring water from outside. He was not paid wages on holidays and sundays. He has further added that he used to get branch opened and closed the same.

6. In rebuttal there is evidence of Accountant B. C. Soni he has stated that the concerned workman was never engaged. Instead through him bucket of water were purchased and payment was made through vouchers Ext. M-1 to M-20, the same were filled by concerned workman. He did not do any thing except to supply water. In his cross examination

he has conceded that from 14-4-85 to 7-4-87 concerned workman had supplied water. No other work was done. There was no written contract for supply of water.

7. As regards evidence of concerned workman that he used to do job of chaparasi. The same cannot be accepted as it has not been alleged in the claim statement or in the rejoinder. I treat it as after thought. Further the concerned workman has not rebutted the claim of the opposite party that he has given theka for supply of water for which payment was made through vouchers. Hence the statement of Soni on this score should be accepted. Apart from this the preparation of vouchers by the concerned workman in his own hand writing is strong indication of the fact that he was supplying water for which payment was made through vouchers. Taking into consideration all these factors I believe the version of the bank and disbelieving the concerned workman. I

8. It is accordingly held that the concerned workman was not engaged as water boy at all. When he was not engaged at all by the opposite party question of termination of his services does not arise. Accordingly he is not entitled for any relief and the award is given accordingly.

9. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 3 जून, 1996

का.आ. 1911.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ महाराष्ट्र के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या एल-12012/73/93-आई आर (बी-2)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 3rd June, 1996

S.O. 1911.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 31-5-96.

[No. L-12012/73/93-IR(B-II)]  
BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL No. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer  
Reference No. CGIT-2/64 of 1994  
(Old Ref. No. CGIT-2/66 of 1993)

Employers in relation to the Management of Bank of  
Maharashtra, Jalgaon.

AND

Their Workmen

APPEARANCES :

For the Employers.—1. Shri R. G. Londhe 2. Shri  
R. M. Samudra Representatives.

For the Workmen.—Shri M. B. Anchan Advocate,  
Mumbai, dated 8th May, 1996

## AWARD

The Government of India, Ministry of Labour by its order No. L-12012/73/93-IR B-II dtd. 1-9-93 had referred to the following dispute for adjudication.

"Whether the action of the management of Bank of Maharashtra, Jalgaon in not offering the post of part-time sweeper, Jalgaon Branch to Shri S. M. Joshi, workman is legal and justified? If not, what relief he is entitled to?"

2. This reference was first decided ex-parte by me on 10-10-94. Thereafter the worker filed and application for restoration of the reference which came to be allowed on 9-12-94. Then he filed a statement of claim at Exhibit-7.

3. S. M. Joshi the workman claims that he was appointed as a part-time sweeper at the Bank of Maharashtra, Jalgaon City Branch on 5-5-85 on daily wages of Rs. 7. He was discontinued on 27-6-86. He pleaded that he was again re-appointed as a part-time on monthly wages of Rs. 430 on 4-5-87. He was discontinued on 30-5-87. It is averred that on 17-8-87 he appointed as a part-time sweeper on monthly wages of Rs. 100. The wages were increased to Rs. 175 in 1989. He worked up to 31-1-92.

4. The workman pleaded that due to sickness of his father he went on leave from 1-2-92 to 6-2-92. Thereafter again he went on leave from 3-3-92 to 3-4-92. On 14-4-92 when he went in the bank to join he was not allowed to join his duties. Thereafter he made several representations for his wages and other things. Ultimately due to the harassment he tendered his resignation on 21-10-92. He averred that again he withdrew his resignation on 30-11-92. He did not receive any correspondence from the bank. Therefore, he wrote another letter on 18-12-92 for withdrawal of the resignation. On 20-12-92 he took a letter from Jain, M.L.A. of Jalgaon to the bank. When the letter was sent to the bank the bank send a letter dtd. 4-1-93 purporting to be a letter dtd. 17-12-92 accepting his resignation which was served on his father by the messenger. He averred that, he also received another letter under certificate of posting with the same intimation. It is asserted that these letters are managed, after the letter of Jain, M.L.A.

5. The workman pleaded that he was never given his due wages as per the Bi-partite settlement. He made several representations to the management to that regard. It is averred that he was harassed by the manager of the bank and other authorities. It is prayed that it may be held that the action of the management of Bank of Maharashtra, Jalgaon in not offering the post of part time sweeper at Jalgaon city branch to the workman is illegal. It is further prayed that he entitled to 1/3rd salary from the date of termination till reinstatement. He prayed for other reliefs.

6. The management resisted the claim by the written statement Exhibit-8. It is averred that Joshi was a candidate sponsored by the employment exchange for temporary appointment of part time substaff. He was kept on the waiting list of the candidates to be utilised in leave vacancies of the permanent employees of the bank. It is averred that his services were utilised in the leave vacancies of a regular part-time substaff and he was appointed purely on temporary basis. It is averred that he never continuously worked in the bank to claim the benefit to absorption as a permanent employee of the bank.

7. The management contended that he was temporarily appointed as a part time sub staff by the order dtd. 4-5-87 to work at Jalgaon city branch of the bank. That appointment was for a period from 4-5-87 to 29-5-87 and he was offered 1/3rd scale wages for that period. After completion of that period he was terminated as per the contract of service. It is averred that Joshi was appointed on probation of part time sub-staff on consolidated wages at M. J. College extension counter w.e.f. 3-11-88. He was first considered for permanent appointment in the bank in November 1988. Till then he has worked purely on temporary basis. Joshi accepted the order on consolidated basis of salary and he was never on 1/3rd scale wages as alleged by them.

8. The management pleaded that Joshi proceeded on leave without intimations since 1-2-92 to 6-2-93 and again from 3-3-92 to 3-4-92. It is pleaded that he did not submit any application in the period. It is denied that he reported for duty on 4-4-92. It is averred that from 3-3-92 Joshi never returned to the bank and send his resignation on 20-10-92. The resignation was accepted and he was informed. It is averred that in view of his voluntary resignation his services came to end w.e.f. 22-10-92. For all these reasons it is submitted that there is no merit in the case and the reference may be answered in favour of the management.

9. The workman filed a rejoinder at Ex-8 and reasserted the contentions taken by him in the statement of claim and denied some of the contentions taken by the management in the written statement.

10. The issues that fall for my consideration and my findings thereon are as follows :

| Issues  | Findings                 |
|---|--------------------------|
| 1. Whether the action of the management of Bank of Maharashtra in not offering the post of part time sweeper to Joshi is legal and justified? | The action is justified. |
| 2. If not, what relief the workman is entitled to?  | Does not survive.        |

## REASONS

11. Srinivas Joshi filed his affidavit Exhibit-12. He admits to have send a resignation (Exhibit-10/16) to the management. The resignation letter is dated 21-10-92. He also admits to have received a letter sent by the management dated 17-12-92 and 30-12-92 which are at Exhibit-10/20 and 10/21 respectively. In all these letters the workman was informed that his resignation was accepted w.e.f. 18-12-92. After perusal of the resignation letter it can be said that the resignation is clear in its term. It cannot be said to be a simple resignation letter. There are allegations made against the officers of the management. The allegations which are made against the officers are not only by out of frustration but there is something more than that. The allegations are severe. The workman used unparliamentary words on many occasions. I am dialecting much on his resignation letter, it is because it is tried to argue on behalf of the workman that he had withdrawn that resignation letter by his letter Ex-10/7 and 10/18 dated 30-11-92 and 18-12-92. In those two letters he only stated that he apologises for the utterances. It can be seen that from the wording of these two letters his apology does not appear to be in the proper words. In fact once a resignation is given it is the choice of the bank to accept it or reject it. The bank had chosen to accept the resignation. He had affirmed that when M. L. Jain wrote a letter dated 20-12-92 (Ex-10/19) the management sent a letter purported to be dated 17-12-92 (Ex-10/20) accepting his resignation. After perusal of the letter of Jain it reveals that he had only recommended the management to consider the application of the workman sympathetically. Nothing more than that. It is argued on behalf of the management that before receipt of this letter the management accepted the resignation. Even for the sake of argument it is stated that after receipt of this letter the management accepted the resignation there is nothing wrong in it. It was the choice of the management to accept the resignation or reject it. There is no reason for coming to the conclusion that after receipt of this letter the management prepared the document dated 17-12-92 accepting the resignation.

12. Once it is held that the resignation is there and it was accepted by the management nothing remained to be done in favour of the workman. The resignation was voluntary. Nobody compelled him to do so. No doubt in the evidence Joshi tried to affirm that the bank officers asked him to send the resignation. But it is without any merit. From the wordings of the resignation it clearly speaks that it is a voluntary act and not on anybody's suggestion. The management had not lend any oral evidence in the matter.

13. The workman has produced a letter at Ex.10/3 dated 9-2-92 whereby he had asked to sanction his leave for the period between 1-2-92 to 6-2-92. There is another letter dated 28-3-92 (Ex.-10/4) whereby he had asked for the leave for the period between 3-3-92 to 4-4-92. That clearly goes to show that he first went on leave and then asked for its sanction. This is not proper. It is the contention of the management that without getting the leave sanctioned the workman went on leave and did not return at all. From this conduct it appears to me that the submission which is made by the bank appears to be correct.

14. From the tenore of the correspondence which is on the record alongwith Ex-10 it appears that the worker is making representations after representations to the management service conditions. It also appears that he could not get success. Therefore he decided to resign. As he resigned from the service there was no question of the bank giving any appointment which he asked for. Naturally the action of the management is justified. I return my findings on the issues accordingly and pass the following Order :

#### ORDER

1. The action of the management of Bank of Maharashtra, Jalgaon in not offering the post of part-time sweeper, Jalgaon branch to Shri S. M. Joshi, workman is legal and justified.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 जून, 1996

का.प्र. 1912.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार डब्ल्यू. सी. एल. के प्रबन्धन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अतिक्रमण, अक्सतुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-5-96 को प्राप्त हुआ था।

[मं. एन-22012/376/91-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1912.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of W.C. Ltd. and their workmen, which was received by the Central Government on the 29-5-96.

[L-22012/376/91-IR(CH)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (MP).

CASE REF. NO. CGIT/LC(R)(22)/1992

#### BETWEEN

Shri Anirudh Singh C/o Shri R. N. Sharma, Walni Colliery, District Nagpur (MS).

#### AND

The Sub-Area Manager, Sillewara Sub-Area of W.C.L., Sillewara, District Nagpur (MS).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

1475 GI/96-7

#### APPEARANCES

For workman : Shri G. V. R. Sharma.

For management : Shri A. K. Shastri, Advocate.

INDUSTRY : Coal Mines DISTRICT : Nagpur (MS).

#### AWARD

DATED : 6th May 1995

This is a reference made by the Central Government, Ministry of Labour, vide its Notification no. L-22012/376/91-IR(CH) Dated 31-1-1992, for adjudication of the following industrial dispute :—

#### SCHEDULE

"Whether the action of the management of Sillewara Colliery of W. C. Ltd., in dismissing Shri Anirudh Singh MTK, Sillewara Colliery, W. C. Ltd., Nagpur from service is proper and justified ? If not, to what relief he is entitled to ?"

2. Admitted facts of the case are that the workman, Anirudh Singh, was working as a Mine Time Keeper in Sillewara Colliery of W.C. Ltd., Sillewara sub-Area Nagpur. It is also not in dispute that a charge-sheet dated 16-4-90 was issued against the workman on the imputation that the workman Anirudh Singh committed gross misconduct of disorderly behaviour with the officers of the Company and threatened and abused his superiors and the co-workers in a drunken state. It is also the common ground that Shri A. K. Mehta Dy. Personnel Manager, was appointed as the Enquiry Officer and on the basis of the findings of the Enquiry Officer the workman was awarded the punishment of dismissal vide order dated 10-7-90.

3. The case of the workman is that the charges against the workman were not specific and they were vague ; that the false and baseless charges were cooked up against the workman ; that the D. E. was defective and the Enquiry Officer has ignored the rules and principles of natural justice ; that the punishment of his dismissal from service was harsh, disproportionate and uncalled for. The workman has prayed for his reinstatement with full back wages and consequential benefits.

4. The case of the management is that on 13-4-90 at about 3.40 p.m. workman, Anirudh Singh, entered in the office of Senior Executive Engineer, Sillewara in a drunken state and used abusive against Shri G. V. Dhurde, SAM and Shri G. S. R. Murthy, Sr. E. E. (C) ; that the workman committed riotous disorderly and indecent behaviour ; that the workman appeared in the enquiry ; with his co-worker and witnesses were cross examined by the workman. The management has further alleged that the Enquiry Officer has conducted the enquiry as per rules and in accordance with the principles of natural justice. The management has alleged that the workman is in the habit of committing such misconduct and he was dismissed twice, but taken back on duty on sympathetic consideration. The management has alleged that the workman has not shown any improvement and he again indulged in the same sort of misconduct and the dismissal of workman on the basis of proved misconduct is just and proper.

5. Following are the issues in the case :—

#### ISSUES

1. Whether the enquiry is just proper and legal ?
2. Whether the management is entitled to lead evidence before this Tribunal ?
3. Whether the charges of misconduct are proved on the facts of the case ?
4. Whether the punishment awarded is proper and legal ?
5. Relief and costs ?

6. Issue No. 1 / 2 : Departmental enquiry was held just, proper and legal vide order dated 10-4-96 and issue No. 1 & 2 were answered in favour of the management.

7. Issue No. 3 : Workman, Anirudh Singh, was charged for assaulting, abusing, threatening, riotous and disorderly behaviour and for leaving the duty place without permission. The Enquiry Officer and the Disciplinary Authority held that only two charges were proved against the workman i.e. drunkenness at the place of work and abusing the co-worker. Not a single witness has stated that Anirudh Singh was in the state of intoxication at the time of the incident. Shri G. S. R. Murty (M. W. 1) has stated that he felt that the workman, Anirudh Singh, was under the influence of liquor. M. W. 2 and M. W. 3 have not stated that the workman was under the influence of liquor. Consequently, it will not be proper to hold that the workman, Anirudh Singh, was under the influence of liquor at the time of the incident. Bore statement of G. S. R. Murty that he felt that Anirudh Singh was under the influence of liquor is not sufficient to hold the charge of drunkenness proved. From the statement of Liladhar Singh (M.W.3) it is clear that while he was in his office Shri Anirudh Singh and Shri Tiwari were inside the Chamber of Shri Murty and Shri Tiwari was abusing and threatening Shri Murty and when M.W.3 asked them that what is the matter then Shri Anirudh Singh abused him and told him get out from the office. Consequently the finding of the Enquiry Officer and the Disciplinary Authority that the workman Anirudh Singh, was guilty of abusing the co-worker is held just and proper. Issue No. 3 is answered accordingly.

8. Issue No. 4 & 5 : The punishment of dismissal from the service was imposed on the workman on the charges of abusing the co-worker and of drunkenness during office hours. The charge of drunkenness is not made out and only charge proved is of abusing the co-worker. It is certainly a misconduct to enter into the office of the senior officer and to abuse co-worker and asked the co-worker to get out from the office. In my opinion such a misconduct is not sufficient or warranted to impose the punishment of dismissal from service. It is not in dispute that the workman was dismissed twice from the service for manhandling and assaulting the co-worker. The punishment of dismissal vide order dated 2-3-74 was called back by the competent authority and the workman was reinstated in service. The second order of dismissal of Anirudh Singh dated 7-9-79 was also set aside on account of the settlement dated 3-7-87 by the management. The facts and circumstances of the case in which the workman was earlier dismissed are not on record and they were not the part of the enquiry proceedings held against the workman. However, in view of the earlier two dismissal orders of the workman it will not be fair to dismiss him from service on account of the imputed misconduct of abusing the co-worker. The workman made the entry in the office of his superior for pressing the demand and on account of discussion and sudden provocation committed the misconduct. The misconduct was not pre-planned nor it was executed with cool head. Such misconduct committed in sudden provocation should not be judged harshly and one could not be prejudiced by the previous misconduct at the time of imposing the punishment. In my opinion the workman deserves punishment of Censor and he should be deprived of the back wages and consequential benefits in order to discourage the similar misconduct by the workman and his colleagues. There is no pleading or evidence regarding the painful employment of the workman after his dismissal from his service. The workman has admitted during arguments that he be reinstated without back wages. In the circumstances of the case, to deprive the workman from the back wages will be in the interest of the administration and justice.

9. Consequently, it is held that the action of the management in dismissing Shri Anirudh Singh from the service was not proper and legal. The punishment of dismissal is substituted by the punishment of Censor. The workman be reinstated in the service from the date of the publication of the award. Workman will not be entitled for back wages or any consequential relief. Award is given accordingly. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

दिनांक: 1 जून, 1996

क्र.आ. 1913—औद्योगिक विवाद अतिरिक्त, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार एम.ई.सी.एन. के प्रवर्धन के संबंध में और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जमालपुर के पंचपर को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[सं. एन-22012/38/92-आर्ट आर (सं-I)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1913.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C. Ltd., and their workmen, which was received by the Central Government on the 28-5-96.

[No. L-22012 38/92-IR (C-1)]  
RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR (M.P.)

Case Ref. No. CGIT/LC(R)(191)/1992

BETWEEN :

The Vice President, National Colliery Workers Federation, P.O. South Jhagrakhand Colliery, District Surguja (MP).

AND

The Chief General Manager Hasdeo Area of S.E.C.L., P.O. South Jhagrakhand Colliery, District Surguja (M.P.P.)

PRESIDED IN.—Shri Arvind Kumar Awasthy.

APPEARANCES :

For Workman.—Shri G. P. Sharma.

For Management.—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines. DISTRICT : Surguja (MP).

#### AWARD

Dated, March, 12th 1996

This is a reference made by the Central Government, Ministry of Labour, New Delhi, vide its Notification No. 1-22012/38/92-IR(C-II) Dated 9-9-1992, for adjudication of the following industrial dispute :—

#### SCHEDULE

"Whether the Dresser-cum-Loaders employed in Hasdeo Area of S.E.C. Ltd. represented by Vice President, National Colliery Workers Federation, Hasdeo Area are entitled for group wages of Rs. 40.74 p. w.e.f. 1-1-1983 and group wages of Rs. 71.00 w.e.f. 1-1-1987 for a workload of 100 cft? If so, to what relief are the Dressers cum-Loaders of Hasdeo Area are entitled to?"

2. On receipt of the reference order parties sought several adjournments for filing the statement of claims. In spite of adjournments parties did not file their respective statement of claims. On 20-2-1996 parties filed Settlement and verified the same. Memorandum of Settlement dated 7th April, 1993 shall form part of this Award as annexure Terms of settle-

ment appear to be just and fair. Award is passed in terms of the Settlement annexed to this Award Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

### ANNEXURE TO AWARD

#### MEMORANDUM OF SETTLEMENT ARRIVED BETWEEN SOUTH EASTERN COALFIELDS LIMITED AND ITS WORKER'S REPRESENTATIVES IN RESPECT OF DIFFERENT UNITS OF HASDEO AREA, ON 7TH APRIL 1993

##### MANAGEMENT :

1. Shri S. V. Wakhare, General Manager, Hasdeo Area.
2. Shri S. K. Misra, G.M. (P&A).
3. Shri S. N. Prasad, Dy. CPM(IR).

##### UNIONS :

1. Shri K. N. Trivedi, GS, RKKMS (INTUC).
2. Shri G. P. Sharma, GS, NCWF.
3. Shri Nathulal Pandey, GS, MPKMS(HMS).
4. Shri Markandey Singh, GS, SKMS(AITUC)

##### Short Recital

1.0 The matter regarding fixation of rates of the Dresser-cum-Loaders/Loader-cum-Dresser in respect of Hasdeo Area, where such workers are designated and working as such, was taken up by NCWF, SKMS (AITUC), MPKMS(HMS) and RKKMS(INTUC) unions at the time of implementation of NCWA-IV, way back in the month of September 1989. The Dresser-cum-Loaders/Loaders-cum-Dressers have been placed in Group V(A) of the NCMA-IV. This designation of Dressers-cum-Loaders/Loader-cum-Dressers are confined to certain collieries in South Eastern Coalfields Ltd. only, as it appears, and their workload is 100 cft.

1.1 With regard to fixation of rates of Loader-cum-Dresser, Dresser-cum-Loaders, a settlement dated 12-9-1989 was arrived at between the Management of South Eastern Coalfields Ltd., and the unions namely, INTUC, AITUC, HMS & NCWF and, as per the Settlement, the rate was fixed at Rs. 67.34 per 100 cft. This was an adhoc arrangement and it was arranged then that the matter will be discussed and final decision taken thereon.

1.2 During the period i.e. date of signing of the agreement dated 12-9-1989, the Unions have approached different forums including conciliation, application under Section 33C(ii) of I.D. Act, before the Central/State Labour Court, Jabalpur, adjudication etc., in as much as, in respect of Hasdeo Area, a joint Arbitrator was agreed upon to ascertain and finalise the rate of Loader-cum-Dressers/Dresser-cum-Loaders. The matter was taken up by NCMF and the case is pending in Central Government Industrial Tribunal, Jabalpur, as reference No.22617/38/92/IR(G. II) dated 4-9-1992 of Ministry of Labour, Govt. of India.

1.3 Even prior to that, more than 900 cases under Section 33 C(ii) have been filed by the applicants i.e. Loaders-cum-Dressers/Dresser-cum-Loaders of Hasdeo Area, through MPKMS(HMS) Union and the matter having been heard by the CGIT, Jabalpur, the cases are pending for orders. The presiding Officer has retired, recently, and hence the pendency.

2.0 Whereas the matter has been taken up by the Unions at different forums including adjudication and applications under Section 33C(ii) etc., the matter has also been discussed with the unions at Area level also at the Hqrs. level in the past. The Unions had been insisting that the rates needed revision from MCWA-I i.e. w.e.f. 1-1-1975, alongwith arrears that may be arrived at by fixation. The Unions were explained by the Management that the rates were fixed in accordance with the settlement arrived during the course of conciliation and that the said settlement continued to be in operation. The Unions not having agreed to the Management's stand continued demanding for settlement in the matter.

3.0 At long last, lengthy deliberations having been undertaken with the Unions, jointly and severally, the matter has been clinched finally and it was agreed by all, even without prejudice to the earlier settlements, all the cases in the process in the past stand settled fully and finally on the terms, as indicated herein below :—

##### TERMS OF SETTLEMENT

3.1 The agreement dated 12-9-89 referred to herein above stands terminated by virtue of this settlement today and/or replaced/superseded by this settlement, in all respects, finally.

3.2 It is agreed that no separate action including notice under Industrial Dispute Act would be required to be taken for termination of the settlement dated 12-9-89 as per Clause No. 3.1 herein above.

3.3 It is agreed that Loader-cum-Dressers/Dresser-cum-Loaders of Hasdeo Area will be paid group wages at the rate of Rs. 71 (Rupees Seventy one only) per day as basic wages w.e.f. 1-1-1987 and that the work load - of the Dresser-cum-Loader shall remain unchanged i.e. 100 cft.

3.4 It is agreed that the Unions concerned, referred to above, having considered the financial implications, have agreed finally that Dresser-cum-Loaders will not be entitled to claim any arrears arising out of HCWA-I, II & III, as discussed and finalised by virtue of this settlement.

3.5 It is also agreed that the unions namely, MPKMS(HMS) NCWF, RKKMS(INTUC) & SKMS (AITUC) shall file a petition jointly with the Management, withdrawing the claims under Section 33C(ii) of I.D. Act before the CGIT Court, within 15 days of signing of this settlement, the applications being LC 11/92 in respect of 212 cases, LC-238 to 700/92 in respect of 162 cases, LC 224 to 387/92 in respect of 163 cases and other 75 cases of Rajnagar, which are also individual applications under Section 33C(ii) of the I.D. Act before Central Govt. Labour Court,

the total number of cases being 912 in respect of applications filed under Section 33C(ii) by MPKMS (HMS).

3.6 The matter arising out of the reference of dispute for adjudication to CGIT, Jabalpur, in which NCWF is the union concerned, shall also stand settled by virtue of this settlement in as much as, the union and the management shall jointly file a petition before the CGIT, Jabalpur praying for award in view of the terms set out in this settlement within a period of 15 days.

3.7 The matter referred by the Union i.e. AITUC to the ALC, Shahdol, shall stand withdrawn and settled by virtue of this settlement, fully and finally.

3.8 The joint arbitration settlement arrived at between the Management and RKKMS Union shall also stand settled by virtue of this settlement and a joint petition shall be made before the Arbitrator by the Management & Unions, jointly, within 15 days of this settlement.

3.9 It is agreed that the arrears arising out of this settlement shall be limited to the period of NCWA-IV only i.e. w.e.f. 1-1-1987 to the date of signing of this settlement and its actual implementation upto 28-3-1993.

3.10 It is also agreed that the payments shall be made w.e.f. 1-3-1993 onwards at the rate decided by the Settlement.

3.11 It is also agreed that the rates as agreed to hereinabove, by the settlement, shall be payable w.e.f. 1-3-1993 for which the payment shall start in the month of April, 1993 to be made on or before 10th April, 1993.

3.12 It is also agreed that the arrears arising out of this settlement i.e. endeavoured to be for the period 1-1-1987 to 28-2-1993, shall be made by 31st May, 1993.

3.13 The final payment will be made as early as possible, but in case of non-payment by 31st May, 1993, the date of payment may be extended upto a month i.e. 30th June, 1993, as a special case.

3.14 It is agreed that all the Unions concerned above and/or workmen concerned by this settlement, shall withdraw all the disputes that may be pending at any court of law or tribunal/Labour Court, under Section 33 c(ii) or conciliation etc. in view of the settlement arrived at between the Unions and the management today; as the dispute having been settled fully and finally, to the entire satisfaction of the parties.

4.0 The Wages of Dresser-cum-Loader/Drill Coal Miners stand fully and finally sorted out and settled by this settlement fully and finally.

5.0 It is also agreed that in case of any dispute that may be pending anywhere and/or arising out of this settlement, shall stand settled/withdrawn even if the parties concerned are unable to make application within the stipulate time, as mentioned above.

6.0 It is agreed that in case of any dispute that may arise in the matter of implementation of this settlement shall be referred to the Director(Personnel) SECI., whose clarification/decision shall be final and binding on the parties in all respects.

7.0 It is agreed that this settlement shall be registered under Rule 58(4) of the I.D. (Central) Rules, 1958 before RLC(C) Jabalpur & other Authorities.

(S.Y. Wakhare) (K.N. Trivedi) (G.P. Sharma)  
General Manager, GS.RKKMS GS, NCWF  
Hasdeo (INTUC)

(S.K. Misra) (Nathulal Pandey)  
General Manager (P&A) GS, MPKMS(HMS)

(S.N. Prasad) ((Markandey Singh)  
Dy. C.P.M.(IR) GS. SKMS(AITUC)

Bilaspur  
the 7th April, 1993.

Witness : Not Illegible

जई दिल्ली, 4 जून, 1996

का.आ. 1914 : ---औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-5-96 को प्राप्त हुआ था।

[मं. एल-22012/77/88-डी-4 (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1914.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on the 29-5-1996.

[No. L-22012/77/88-D.IV(B)]  
RAJA LAL, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

#### PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.

Dated : 14th day of February, 1996

## INDUSTRIAL DISPUTE NO. 12 OF 1989

## BETWEEN :

The Secretary, Central Council,  
Singareni Collieries Workers' Union,  
P.O. Godavari Khani  
Dist. Karimnagar (A.P.) .. PETITIONER

## AND

The Chairman and Managing Director,  
M/s. S.C. Co. Ltd., P.O. Kohagudem,  
Collieries, Dist. Khammam (A.P.)  
.. RESPONDENT

## APPEARANCES :

Sri B. Ganga Ram, Chief Vice President, Central Council, S.C. Workers Union for the Petitioner.

M/s. K. Srinivasa Murthy, and G. Sudha, Advocate for the Respondent.

## AWARD :

This is a reference made by Government of India, Ministry of Labour, by its Order No. L-22012(77)88-D.IV(B), dt. -12-1989 under Sections 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 (hereinafter called the Act) for adjudication of the dispute mentioned in its schedule which reads as follows :

"Whether the lock-out declared by the Management of M/s. Singareni Collieries Co. Ltd., Ramagundam Division, PO Godavarikhani, Dist. Karimnagar on 14-7-1987 in 1st Shift, as sequel to mass casual leave by the managers, Under Managers etc., is legal. If not, to what relief the workmen effected by the said lockout are entitled ?"

The said reference has been registered as Industrial Dispute No. 12 of 1989 on the file of this Tribunal. After receiving the notices issued by this Tribunal, both parties put in their appearance and they are being defended by their representatives.

2. The material averments in the claim statement filed on behalf of the Petitioner are as follows :—The issues involved in this industrial dispute and in I. D. No. 10 of 1989 are common, that all the officers of the Singareni Collieries went on mass casual leave and the Management declared illegal lockout on 14th and 16th July, 1987 in different mines and in different Divisions and Areas and the issue in I.D. No. 10 of 1989 is also covered in I.D. No. 12 of 1989. In Ramagundam area Mines in 1st Shift of 14th July, 1987 all officers i.e. Colliery Managers, Assistant Managers and Under Managers and other officers of the Engineering Department in all Mines of Singareni Colliery except Opencast went on mass casual leave. The workers came to the Mines to attend to their duties but Managers and Under Managers who came to the Mines did not show any work to the workers and they went away stating that they were on mass casual leave. The General Managers arranged to put notices on all the mines and lockout was declared. Thus the Management closed the place of employment

temporarily and refused to employ workmen in mines of Ramagundam Divisions in the 1st shift of 14th July, 1987, and thus locked out all the mine illegally. The action of all the officers by going on mass casual leave does not come under the definition of 'strike' and the officers do not come under the definition of "workman" under the Act and the argument of the management that the action of officers going on mass casual leave amounts to strike is baseless and illegal. Whenever different sections of workers or all workers go on strike, these officers are not locked out but they were allowed to continue their work and they are paid full salaries on those days also. Under Regulation Nos. 31(1)A and 31(7) of Mines Regulation 1957 no mine shall be opened, worked or reopened unless there is a manager of the mine. But for any reason, the Manager is unable to exercise or perform his duties, he should authorise in writing a person whom he considers competent to act as Manager of the Mine, provided that such person holds a manager's or overman's certificate. The failure of the Management of the Respondent Company to show work to the workers of all Mines in 1st shift of 14th July, 1987 is nothing but illegal lockout. Therefore, the workers of all the mines are eligible to get full maisters (wages) of 1st shift of 14-7-1987. Hence an Award may be passed directing the Respondent to pay full wages for 14-7-1987.

3. On behalf of the Respondent-Company, a counter has been filed to the following effect. It is true that the points for consideration in both the industrial disputes i.e. I. D. No. 12/89 and 10/89 are one and the same. One Sri L. K. Das was working as Deputy Chief Mining Engineer/Agent in the Mines at Godavari Khani was appointed as Agent under Section 2(c) of the Mines Act. On 13-7-1987 he returned to the house from the Mine at about 8.40 p.m. and at that time some disgruntled elements assaulted him and he succumbed to injuries on 15-7-87. A brutal attack on the life of Sri L. K. Das had caused panic and feeling of insecurity to the lives of officers and their families as they were seriously trying to maintain discipline in the Mines. The law and order situation was very tense. The other Mines Managers and other executives were terribly upset because of brutal attack on the life of Sri L. K. Das who was one of the senior most, sincere and honest and hard working officer. The interested persons who were responsible for the brutal assault on Sri L. K. Das also infiltrated unsocial elements in to the Mines areas and which resulted in Officers incharge of various mines and establishments going on mass casual leave. Though the Management did not accept their casual leave, they did not attend duties as they were scared of their lives. Several officers were threatened of dire consequences. Under the Coal Mines Regulations a Mine cannot be operated without the persons of the Mines Manager and other officers who have statutory certificates to operate the mine. The Mines Supervisors staff had refused to take the responsibility of the safety of the workmen as well as the Mines if they are engaged in the mine on 14-7-1987. The Mines staff and all the officials under the Mines Act refused to be authorised to act as Mines Manager. After great persuasion some of the staff agreed to work as essential staff for ventilation, dewatering etc., in the Mine. In view of the serious law and order situation and keeping the view the peace, violations and breach of Company's property, a decision was taken to declare lockout of workers of the Mines except the essential staff and accordingly lockout was declared. The Petitioner Union and all other Unions are aware of the said facts. The allegation that the lockout is illegal is not correct. The lockout declared for the workmen consequent upon the concerted absence of another section of employee attracts Section 24(3) of the Act. Therefore, the management is within its right to declare lockout under the circumstances explained and in view of the grave law and order situation

and uncertainty prevailing in areas. The tense situation in Godavari Khani slowly spread over to all the Mines and Departments in all the areas of Singareni Collieries like Bellampalli, Mandumarri, Ramakrishnapur, Kothagudem Yellandu and Manager etc. In all areas officers were given threats. As such the Managers and executives who are the statutory persons in view of the apprehensions found that the situation is not in their control and it was practically difficult for them to manage the Mines. Therefore in some areas lock-out was declared on 14-7-1987 and in some areas lock-out was declared on 14th and 16th July, 1987. The officers to protect themselves were constrained to go on mass casual leave. Some of the Under Manager initially came to the Mine but in view of the tense situation they found that at any moment the event may turn serious and they cannot control the situation. As such to protect themselves they have left the workspot. The executive staff and the statutory staff in the Mines were afraid of the unsocial elements near the Mines and nobody was prepared to take up the responsibility, as the situation is out of control. The General Managers locked out the Mines to maintain peace and protect the Mines which are National property. The officers going on mass casual leave which was not sanctioned amounts to a concerted action. The refusal of mining officers to accept the responsibility to work in the Mines also is a refusal from work and it resulted in declaration of lockout. The petitioner union has misconstrued the factual position and the situation prevailing on 14th and 16th July, 1987 and mass casual leave has nothing to do with regard to the lockout. Every possible step to maintain peace and preserve the life, the action taken by the management to lockout workers is justified and legal in accordance with Section 24(3) of the Act. The demand raised by the Union is unreasonable and illegal. The Petitioner Union is not entitled to claim the wages either for 14th or 16th July, 1987 as demanded.

4. On behalf of the Petitioner Union WW-1 is examined and no documents are marked. On behalf of the Respondent-Management MW-1 and MW-2 are examined and Exs. M-1 to M-67 are marked. Y. Gangiah, Central Vice President of S.C. Workers Union, Godavarikhani is examined and WW-1 and he deposed to the averments in the claim statement. Sri Gopal Rao, Senior Personal Officer of the Respondent-Company is examined as MW-1 and he deposed to the averments in the counter. Sri R. Balraj working as Head Overman in GDK No. 1 Incline is examined as MW-2. MW-1 and MW-2 deposed with regard to the law and order situation prevailing just prior to the declaration of lockout. The details of the documents Ex. M-1 to M-67 are appended to this Award.

5. The points that arise for consideration are as follows :

- (1) Whether the Lockout declared by the Respondent-Management on 14-7-1987 in first shift as a sequel to mass casual leave of Colliery Managers and Under Manager is legal ?
- (2) To what relief the workmen affected by the said lockout are entitled to ?

6. Point (1)—The admitted facts as revealed from the evidence on record are as follows :

The Singareni Collieries Company Limited, Kothagudem in Khammam District is a public sector undertaking set up for extraction and sale of coal. There are 70 Mines under its control, spread over to four districts i.e. Karimnagar, Adilabad, Warangal and Khammam and it is divided into eight areas for the purpose of administration convenience. About 1.5 lakhs workmen, both skilled and unskilled are engaged everyday in all the said Mines. The Petitioner-Union is one of the Unions of the workers registered under the Trade Unions Act.

On 13-7-1987 at 8.30 P.M. one L. K. Das who was working as Deputy Chief Mining Engineer/Agent in 6-A and 6-B Inclines of Ramagundam Area, was attacked with sharp edged weapons by some unknown persons while he was returning to his quarters from the place of work. He sustained multiple incised injuries and he succumbed to the

injuries on 15-7-1987 at 2.15 p.m. in Area Hospital, Godavarikhani while he was undergoing treatment. A case in Crime No. 106/87 under Sections 302 and 148 I.P.C. was registered at Godavarikhani Police Station. Ex. M-1 is the xerox copy of the inquest report relating to the inquest held over the dead body of the said L. K. Das. As seen from this document there were as many as 14 injuries over the dead body of the said L. K. Das and the inquestdars opined that L. K. Das died due to the injuries caused by iron rods by unknown people. On account of that incident, The Executive and Officers of Ramagundam Region went on mass casual leave as a protest against the attack on L. K. Das on 14-7-1987 in the first shift. As there were none to attend to the duties of the said officers, the management declared lock from the first shift on 14-7-1987. The said lockout was lifted in Ramagundam Area from the second shift on 14-7-1987 as the Overmen undertook to operate the Mines operations in the absence of the Colliery Managers and Under Managers.

On 16-7-1987 all the Officers including the Executives went on mass casual leave in Kothagudem and Bellampalli Regions. As there were none to attend to the duties of the said officers, the Management declared lockout w.e.f. first shift on 16-7-1987 in the said Regions. The said lockout was lifted on 17-7-1987 as the Officers resumed for duties.

The Deputy General Secretary of the Workers Union raised the dispute with regard to the lockout declared on 14-7-1987 first shift in Ramagundam Area and this resulted in the reference in I. D. No. 12 of 1989. The Chief Vice President of the Workers Union raised the dispute with regard to the declaration of lockout on 16-7-1987 in Kothagudem and Bellampalli Regions and also the declaration of lockout on 14-7-1987 in Ramagundam Region and this resulted in the reference in I. D. No. 10 of 1989. I. D. No. 12 of 1989 has been specifically referred to the incident of lockout declared on 14-7-1987 first shift. I. D. No. 10 of 1987 relates to the lockout declared on 16-7-1987. The workmen were not allowed to work during the said periods of lockout declared by the Management and therefore they are now claiming wages for the said lockout period alleging that the lockouts declared by the Management are illegal and arbitrary.

7. It is contended by the learned representative of the Petitioner Union that the lockout declared by the Management in the first shift on 14-7-1987 is illegal and not justified as the provisions under Sections 22 and 23 of the Act are not complied with, that the Officers who went on casual leave and who refused to attend to the duties are not workmen as defined under the Act, that the Management could not deprive the workman the wages for the lockout period for the dereliction of duties on the part of the Officers and that no action was initiated against the officers who went on mass casual leave and who refused to perform their duties and that the Management, instead of taking action against the erring officers, has resorted to illegal lockouts, thus depriving the workmen of their legitimate wages and therefore the workmen affected by the said illegal lockout are entitled for wages for the lockout period.

8. The learned counsel for the Respondent Management on the other hand submitted that due to criminal assault on Sri L. K. Das, Deputy Chief Mining Engineer on 13-7-1987, created terror in the minds of the officers, and that the officers did not dare to come near the mines and so they went on mass casual leave that the Management authorised the Supervisory staff i.e. the Head Overmen who had necessary qualifications under Coal Mines Regulations, to undertake the Mining operations, but they refused to work and therefore, the Management had no option but to declare lockout in the interest of safety of the Mines and the personnel. It is further contended by the learned counsel for the Respondent Management that the Management would have

risked prosecution for undertaking operations of the mine without qualified officers or authorised supervisory staff and therefore, under the peculiar circumstances, the lockout had been declared and that it is just and legal.

9. It is not disputed that the Respondent Management declared lockout in the Mines situated in Ramagundam Area during the first shift on 14-7-1987 as a result to mass casual leave of executive and officers, Section 2(1) of the I. D. Act defines 'lockout' as meaning closing of a place of employment or suspension of work or refusal by an employer to continue to employ any number of persons employed by him. General restrictions on strikes and lockout are to be found in Sections 22 and 23 of the I. D. Act. The provisions of Sections 22 and 23 cumulatively apply to public utility services, while the provisions of Section 23, apply to both the public utility and non-public utility services. Section 24 of the Act lays down the circumstances under which strikes and lockouts shall be illegal and under which they shall not be deemed to be illegal. The effect of combined reading of Sections 22 and 23 is that the lockout will be illegal if—

1. the concerned is a public utility concern, when
2. (i) notice required by Section 22(2) has not been given ; or
- (2) It has been declared during the period of operation of settlement or award in respect of matters covered by that settlement or award ; or
- (3) It has been declared :
  - (i) during the pendency of conciliation proceedings before
    - (a) a conciliation officer, or
    - (b) a Board, or
  - (ii) within 7 days from the conclusion of such proceeding ; or
- (4) it has been declared during the pendency of
  - (i) adjudication proceedings before Labour Court, Industrial Tribunal or National Tribunal ; or
  - (ii) within two months after the conclusion of such proceedings ; or
  - (iii) during the pendency of arbitration proceedings before an "Arbitrator" or
  - (iv) within two months after the conclusion of such proceedings where a notification under Sub-Section (3-A) of Section 10-A has been issued."

In the instant case, it is not disputed that lockout has been declared by the Management without giving notice of lockout as contemplated under Section 22(2) of the Act. Therefore, the learned representative for the Petitioner Union submits that the said lockout has to be declared as illegal as it has been declared in contravention of the provisions under Section 22(2) of the Act. The learned counsel for the Respondent-Management on the other hand, submits that such a notice of lockout shall not be necessary when a strike is already in existence at the time of declaring a lockout as provided under Sub-Section (3) of Section 22 of the Act. The learned counsel further submits that in the instant case by their concerted action by submitting mass casual leave by the officers they resorted to strike and therefore, the Management had no option but to declare lockout as the mining operations could not be undertaken in the absence of the qualified statutory officers. The learned counsel for the Respondent-Management further submits that in the peculiar circumstances prevailing at that time there was every justification for the Management in declaring lockout and therefore, the lockout declared by the Management is just and legal. There is much force in these contentions of the learned counsel for the Respondent. Admittedly, on account of the brutal attack on Sri L. K. Das Deputy Chief Mining Engineer on the night of 13-7-1987 all the Executives and Officers went on mass casual leave. It is a concerted and corroborated refusal under a common understanding among all the officers. It is well settled that a concerted or corroborated refusal, under a common understanding among a number of employees, to continue to work amounts to strike

vide *Buckingham and Carnatic Company Ltd. v. Their workmen* [1933 (I) I.L.J. page 181] and *National Textile Workers' Union v. Shree Meenakshi Mills Ltd.* [1951 (II) I.L.J. Page 516]. By submitting mass casual leave, the officers of the Respondent-Company suspended their work without prior intimation. It is a collective stoppage of work on the part of the officers and without their presence the mining operations could not be undertaken by the Respondent-Company. Under these circumstances, it amounts to a strike on the part of the officers and notice of lockout is exempted under Sub-Section (3) of Section 22 of the Act. Therefore, the non-issuance of the lockout notice does not render the declaration of the lockout by the management as illegal under the circumstances of this case.

10. There is also justification for declaration of lockout in view of the deterioration of law and order situation and security at that time. Admittedly Sri L. K. Das was brutally attacked on the night of 13-7-1987 while he was returning to his house from the place of work. WW-1 also stated in his evidence that the Workers Union had condemned the attack of L. K. Das. It is in the evidence of MW-1 that there were threats on the lives of officers even prior to the attack on L. K. Das MW-1 who is working as Senior Personnel Officer in the Respondent-Company, deposed with regard to the law and order situation at that time thus : "There were threats on the lives of officers and one Mr. V. B. Thalapalkar was attacked and there are some other threats to the officers, prior to the death of L. K. Das. Godavarikhani, Ramalishnapur and Bellampalli areas are not peaceful areas. The officers working in these areas are under tension because they are extracting work from the workers. In man power strength, workers are more than officers. Prior to the death of L. K. Das, the officers were not working peacefully. There was interference from the outsiders in the day to day work. Before the death of Sri L. K. Das and after his death also the threats were continued and there were attacks on the officers. On Mr. A. Laxminarayana was killed by the Naxalites and another Mr. Vasanthkumar, Colliery Manager was also attacked. On 14-7-1987 officers went on mass casual leave as they got threats not to work, from some unsocial elements and the casual leave was rejected by the Management, wages were not paid and their incremental dates were also postponed. When officers are on casual leave, Overman will be authorised to run the Mines. Exs. M-2 to M-14 are the xerox copies of the authorisations issued to the Overman to act as Mines Managers. The Overmen, so authorised, had refused to work as Mines Managers and as such the Management declared lockout with effect from 14-7-1987 first shift i.e. from 7.00 A.M. to 3.00 P.M. Exs. M-15 to M-66 are the xerox copies of lockout notices issued to the various Governmental agencies. Lockout was declared to safeguard the property, electrical and mechanical installations and safety of the workmen. Open Cast Mine worked during the lockout period." As earlier stated L. K. Das had received 14 incised injuries due to brutal attack on him and he was admitted in Area Hospital in Godavarikhani for treatment and he succumbed to injuries on 15-7-1987. It is also not disputed that all the officers who were working in that Area were under consent intimidation threat and pressure because of the extremist activities. Thus extremist activities were also within the Mine as there were some militant workmen. There were kidnappings, assaults and negotiations at gun-point of the Executives. It is also not disputed that Godavarikhani, Bellampalli Areas have been declared as disturbed areas and there was no security and safety of the Officers working in the mines in those areas, and the officers used to get threats and they were being attacked. It might have caused panic in the minds of all the officers and on account of it they had applied for mass casual leave apprehending danger to their lives the officers abstained from work by applying mass casual leave from the first shift of 14-7-1987. It appears to be a spontaneous act on their part in view of the brutal attack on Deputy Chief Mining Engineer by name L. K. Das on the previous night. In the absence of the officers who are statutory authorities under the Mines Regulations the Management cannot undertake mining operations and therefore the Management is justified in declaring lockout on 14-7-1987 first shift (due to the absence of statutory officers. In this context the decision of the Supreme Court in *Kabbe's Estate, Kothari v. Rajamani-ckam and others* [1960 (II) I.L.J. page 275 (Supreme

Court)) is relevant. The facts in that case are also similar to the facts in this case. In that case, the Manager of Kairbetta Estate was assaulted on 26-7-1957 by some of the workmen and he suffered six fractures and had to be in hospital in Coonoor and Madras for over a month. The staff was also threatened by the workmen. As a result of those threats Kalso Division was closed until further notice. Under those circumstances, their Lordships of Supreme Court held that the declaration of lockout was fully justified. In the instant case also L. K. Das, Deputy Chief Mining Engineer was brutally attacked and he sustained as many as 14 incised injuries over his body and he was shifted to Area Hospital, Godavarikhani for treatment and he succumbed to the said injuries of 15-7-1987. On account of such brutal attack, the Officers and Executives went on mass casual leave and consequently the Respondent-Management declared lockout. The declaration of Lockout by the Management in those circumstances is justified.

11. The learned representative of the Petitioner Union submits that the Respondent-Management ought to have made alternative arrangement for running the mining operations in the absence of the officers and that under Regulation No. 31 of Coal Mines Regulations 1957 that a Coal Mine Manager can authorise in writing a person whom he considered competent to act as Manager of the Mine in his absence and that in the instant case, the Respondent Management failed to make alternative arrangements in the absence of the officers for running the mines. The learned counsel for the Respondent-Management submits that steps were taken to authorise the Head Overman to run the mining operation in the absence of the officers but they refused to operate the mines. The Senior Personnel Officer of the Respondent-Company examined as MW-1 deposed on this aspect thus "When officers are on casual leave, Overmen will be authorised to run the mines. Exs. M-2 to M-14 are the xerox copies of the authorisations issued to the Overmen to act as Mines Managers. The Overmen so authorised had refused to work as Mine Managers and as such the Management declared lockout with effect from 14-7-1987 first shift i.e. from 7.00 A.M. to 3.00 P.M. Exs. M-15 to M-66 are the xerox copies of lockout notices issued to the various Governmental agencies." In his cross examination also MW-1 stated thus : "In first shift authorisation was given to Overmen but they refused to take charge as Mine Managers. The Management does not obtain any endorsement from the Overmen who refused to act as Mines Manager." MW-2 R. Balraj is the Head Overman working in GDK No. 1 Incline. He was categorically stated on oath that himself and other Head Overmen were authorised to officiate as Mine Managers in the absence of the officers and that they refused to accept the said authorisation. MW-2 deposed thus : "On 14-7-1987 when I came to duty I came to know that previous night some persons assaulted grievously L. K. Das and he was admitted in the hospital. In normal course all the workmen will put their muster and come to the distribution point for work but on that day they have not come to the distribution point and they formed into groups and discussing among themselves. From the Management side no Undermanager came for duty and a little later Mr. Karunakar came and informed me that there are threats to the officers and messages were received so they are not coming to duty and requested whether we can run the mine. He asked me that he will give authorisation to me to officiate as Mines Manager to run the Mine. I told him that I will not take the responsibility on the production side. But for safety purpose we will discharge duties statutorily under the Mines Act. We were also in tear psychosis. If we do the work there is a threat and if we do not do the work also there is a threat ..... Workers were not supporting us and they have not come to the distribution point for work and that was the reason I refused to take charge as Mines Manager though I was Head Overman. Even other Overmen have also not agreed to take charge as all the Overmen took a decision not to take charge. As I am the Head Overman the Mines Manager directly asked me and that was the reason why there was no production in the Mine on that day. On that day the lockout was declared. On that day the essential staff of the Mine like Pump Drivers, Fan Drivers Electricians worked as essential staff were only paid the wages. "In his cross examination MW-2 stated thus : "I know that as per the Coal Mines Regulations, 1957 Overmen who were competent person can run the mine if they are officiated.

The Mines Manager gave it in writing authorising the Overman to run the mine. Out of fear myself and other Overmen did not agree to run the mine in spite of authorisation. We did not give it in writing that we are not going to officiate as Mines Manager. Exs. M-2 to M-14 are the xerox copies of the letters addressed to the Director General of Mines Safety, Dhanbad informing that in the absence of the officers of the Mines, the Overman of the Mines holding Overmen Certificate of competency to act as Manager of the Mine till the permanent Manager or other persons holding Manager certificate of competency resumes their work. Exs. M-15 to M-66 are the xerox copies of the lockout notices of various Mines in Ramagundam Area issued to the Assistant Labour Commissioner (Central) and others. The oral testimony of MW-1 and MW-2 and the documents Exs. M-2 to M-66 amply prove that the Respondent-Management made attempts to authorise the Overmen holding Overman Certificates of competency to act as Managers of the Mines and the Lockout notices were also intimated to the concerned Governmental authorities. Hence there is no substance in the contention of the learned representative for the Petitioner that no attempt was made to run the mining operations making alternative arrangements in the absence of the officers. The Respondent-Management declared lockout when the authorised Overmen refused to act as Mines Manager. As per the Mining Regulations, the mining operations could not be entertained in the absence of the statutory staff. In the instant case in the absence of the Colliery Managers and other officers, the supervisory staff, i.e. the Overmen were authorised to take up the responsibility of running the mines and they refused to do so. Under those circumstances, I have no hesitation to conclude that the Respondent-Management was constrained to declare lockout and therefore there was every justification for declaring lockout under those circumstances.

12. In the light of my above discussion, I hold on Point (1) that the declaration of lockout on 14-7-1987 first shift is just and legal and that the Management is justified in declaring lockout in view of the mass casual leave submitted by the statutory staff on account of the panic created due to brutal attack on L. K. Das, Deputy Chief Mining Engineer on the night of 13-7-1987. The Management had no alternative but to declare lockout due to the absence of the statutory staff and as supervisory staff failed to undertake the responsibility of running the mining operations in the absence of the Colliery Managers and for safety of the Mines and Personnel. The point is thus decided in favour of the Respondent-Management.

13. Point (2)—This point relates to the relief to be granted to the workmen who are affected by the declaration of the lockout on 14-7-1987 first shift. The learned counsel for the Respondent-Management submits that as the Management is justified in declaring lockout in view of the prevailing conditions, regarding law and order situation and security, the affected workmen are not entitled for wages for the lockout period. Admittedly, the Management declared lockout not on account of the illegal strike by the workmen. There is nothing on record to show that the lockout was declared due to any precipitating act on the part of the workmen. It is in the evidence of MW-1 that on 13-7-1987 at 8.30 P.M. L. K. Das was brutally attacked by some unknown persons in his quarters while returning from office. It is not the case of the Management that L. K. Das was attacked by any of the workmen of the Respondent-Company. As seen from Ex. M-1 inquest report L. K. Das died due to the injuries found on his body caused by some unknown persons. There is no whisper even in the inquest report Ex. M-1 that the workmen of the Respondent-Company were responsible for the brutal attack on L. K. Das. On the other hand, it is clearly mentioned therein that L. K. Das was attacked by unknown persons. There is nothing on record to show that the workmen of the Respondent-Company were behind the attack on L. K. Das. Even in the counter filed by the Respondent it is nowhere mentioned that these workmen were responsible for the said attack. Therefore, there is nothing on record to show that the Management had declared lockout as a consequence of an act on the part of the workmen. Admittedly, the lockout was declared as statutory staff and other officers went on mass casual leave on account of the panic created due to the brutal attack on L. K. Das and it was done spontaneously. Further it is in the evidence of MW-1 that no disciplinary

action was taken against the officers who went on leave suddenly, except postponing the date of increment by one day and non-payment of salary for the said period. Ex. M-67 is the xerox copy of the proceedings of the Respondent Company for taking action against the concerned officers who went on mass casual leave. As seen from this document the Management decided that the leave applied for should not be granted and that the same will be treated as absence and the annual increment dates of those officers will be shifted by one day. When the declaration of lock-out by the management was not due to any act of the part of the workmen, there is no justification for withholding the wages of the workmen for the lockout period. Considering the circumstances in this case, I am of the opinion that it will be in the ends of justice if the Respondent-Management is directed to pay the wages to the workmen for the lock-out period i.e. for the first shift of 14-7-1987. Therefore, I hold on this point that the workmen who are affected by the lockout are entitled for the wages for the lockout period.

14. In the result, Award is passed stating that the lock-out declared by the Respondent-Management for the first shift on 14-7-1987 as a sequel to mass casual leave by the officers is just and legal and that the workmen affected by such lockout are entitled for their wages for the said lockout period. In the circumstances of this case, the parties are directed to bear their costs.

Award is answered accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and seal of this Tribunal, this the 14th day of February, 1996.

A. HANUMANTHU, Industrial Tribunal-I

#### Appendix of Evidence

##### Witnesses Examined

for the Petitioner :

WW-1—Y. Gangayya.

##### Witnesses Examined

for the Respondent :

MW-1—C. Gopala Rao.

MW-2—R. Balaraj.

Documents marked for the Petitioner/Workmen

NIL

Documents marked for the Respondent/Management

Ex. M-1—Xerox copy of the Police Panchanama report.

Ex. M-2 to M-14—Xerox copies of the authorisation issued to the Overman to act as Mines Manager.

Ex. M-15 to M-66—Xerox copies of the lockout notices issued to various Governmental agencies.

Ex. M-67/1-8-87 (By consent)—Xerox Copy of the Director (Personal) reg. Mass Casual Leave applied on 14th/15th 16th/17th July, 1987 by officers.

नई दिल्ली, 4 जून, 1996

का.आ. 1915.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम सी सी एल. के प्रवन्धत्व के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-5-96 को प्राप्त हुआ था।

[सं. एल-22012/112/95-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1915.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on the 29-5-1996.

[No. L-22012/112/95-IR (C-II)]

RAJA LAL, Desk Officer.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I

Dated : 24th day of February, 1996

Industrial Dispute No. 81 of 1995

BETWEEN

The Vice President,  
SCM Karmika Sangh (BMS),  
Kothagudem,

.. Petitioner-Workman.

AND

The Chief General Manager,  
S. C. Company Limited.

Manuguru,

Khammam District,

.. Respondent-Management.

APPEARANCES :

None for either parties.

#### AWARD

The Government of India, Ministry of Labour, New Delhi by its Order No. L-22012/112/95 IR (C-I), dated 10-10-1995 made this reference under Section 10(1)(d) & 2A of Industrial Disputes Act, 1947 for adjudication of the Industrial Dispute mentioned in its schedule which reads as follows :

"Whether the action of the management in not preponing the date of promotion of Sh. P. Narsimha Row welder Exc. Group 'C' Oc. II Manugur against the resultant vacancy of Sh. T. Rajaiah, Welder Group 'B' w.e.f. 1-4-89 on par with the promotion of Sh. T. Rajaiah, Welder Exc. Group 'C' to Group 'B' is legal and justified. If not, to what relief the workman is entitled?"

The said reference has been registered as I.D. No. 81 of 1995 on the file of this Tribunal.

2. After registering the above Industrial Dispute this Tribunal has issued notice to both the parties to appear and to file their statements. Respondent-Management received the said notice but he did not appear when the matter was called on 5-12-1995. There was no representation on its behalf. Hence this Tribunal set the respondent ex parte. The matter was posted for awaiting service of notice on the petitioner-workman from time to time.

3. Subsequently the Postal authorities, informed that the petitioner received the notice issued by this Tribunal. On 24-2-1996 when the matter was called neither the petitioner nor the concerned workman appeared before this Tribunal. There was no representation also on their behalf. Hence the petitioner-union was also set ex parte. As both parties remained ex parte there are no triable issues.

4. Since the parties are not evincing any interest in prosecuting the matter, there is no option for this Tribunal except to close the reference. Hence the reference is closed.

Typed in my dictation given under my hand and the seal of this Tribunal this the 24th day of February, 1996.

A. HANUMANTHU, Industrial Tribunal-I

Appendix of Evidence

NIL

नई दिल्ली, 4 जून, 1996

का.आ. 1916 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबन्धन के संबंध निषेधकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 2 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[सं. एन-20012/335/90-आई आर (नी-1)]  
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1916.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Dhanbad No. 2 as shown in the Annexure in the industrial dispute between the employers in relation to the management of B. C. C. Ltd. and their workmen, which was received by the Central Government on 28-5-1996.

[No. L-20012/335 90-IR (C-I)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act., 1947.

REFERENCE NO. 62 OF 1991

PARTIES :

Employers in relation to the management of Dugda Coal Washery of M/s. B. C. C. L. and their workmen

APPEARANCES :

On behalf of the workmen : Shri L. B. Sahay, General Secretary, Coal Washeries Workers' Union, Dugda  
On behalf of the employers : Shri H. Nath, Advocate  
State : Bihar. Industry : Coal Washery

Dated, Dhanbad, the 10th May, 1996

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/335/90-I, R Coal-I, dated, the 21st March, 1991.

#### SCHEDULE

"Whether the management of Dugda Coal Washery of M/s. BCCCL Ltd., is justified in superannuating Shri Rattan Dutta USW E. No. 1001 w.e.f. 30-4-90 ? If not, to what relief the said workman is entitled ?"

2 The case is proceeding since 1991. Neither party has adduced any evidence in this case.

3. Seven copies of the petition, three in original and four of Xerox copies are filed stating that the dispute regarding superannuation of the concerned workman has since been settled with the management and there is no dispute at present between the parties and thereby they have prayed before this Tribunal for passing a 'No dispute' Award in respect of the reference case.

4. Before me there is no terms of settlement but it appears that the matter has been settled out of Court and the petition is signed by the concerned officer of the management and concerned workman as well as the General Secretary of the sponsoring union which remains unchallenged.

5. So practically I am to dispose of the reference at present and pass a 'No dispute' Award in view of the facts stated therein.

6. Accordingly a 'No dispute' Award is passed and the original petition filed by the parties do form part of the Award as annexure.

D. K. NAYAK, Presiding Officer

#### ANNEXURE

BEFORE THE PRESIDING OFFICER CENTRAL GOVT INDUSTRIAL TRIBUNAL NO. II AT DHANBAD.

Reference No. 62/91

Parties :

Employers in relation to the management of Dugda Coal Washery of Bharat Coking Coal Limited :

AND

Their workman

Humble petition of the Employer as well as the workmen represented by Coal Washeries Workers' Union.

Most respectfully submit that—

(1) The above referred reference case is pending before your honourable court.

(2) That the dispute regarding superannuation of Sri Ratan Dutta, Ex. USW E. No. 1001 with effect from 30-4-1990 has since been settled with the management of Dugda Coal Washery and now we have no dispute with the management of Dugda Coal Washery in the above context.

(3) That in view of the above your honour will be pleased to pass a no dispute award in respect of the above mentioned reference case.  
For & on behalf of the Employer

Sd/- illegible.

Addl. Chief Engineer (E), Dugda Coal Washery.

For and on behalf of the Employer :—

SHRI RATTAN DUTTA, Ex-USW, E. No. 1001.  
For & on behalf of the Employee's Union.

नई दिल्ली, 4 जून, 1996

का.आ. 1917 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देवा बैंक के प्रबन्धन के संबंध निषेधकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-96 को प्राप्त हुआ था।

[संख्या एन-12012/263/93-आई आर (बी-11)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1917.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workmen, which was received by the Central Government on 3-6-96.

[No. L-12012/263/93-IR(B-II)]

BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 36 of 1994

In the matter of dispute between :

Sri Ghanshyam,  
House No. 524,  
Sector-19, Indira Nagar,  
Lucknow,  
AND  
Regional Manager,  
Dena Bank,  
Vidhan Sabha Marg,  
Lucknow.

## AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification no. L-12012/263/93-I.R. B-2 dt. 4-4-1994 has referred the following dispute for adjudication to this Tribunal—

“Whether the claim of Sri Ghanshyam Ex-Driver that he was an employee of Dena Bank Lucknow is correct? If so whether the action of the management in terminating his services w.e.f. 1-9-90 was justified? If not what relief Sri Ghanshyam is entitled to?”

2. The concerned workman Sri Ghanshyam in his claim statement has alleged that he was employed as Driver with the opposite party Dena Bank at Vidhan Sabha Marg Branch to drive Jeep No. UGO 2566. The other vehicle which was Ambassador Car bearing no. UHF 3639 was driven by Kalap Singh. The concerned workman worked from 24-2-86 to 30-8-90. In support of his case he has further alleged that once he had brought one Ambassador Car which was purchased from Delhi in August, 1990 and was paid T.A. as well. He was also given cycle advance once. In July 1987 he was transferred from Ghoshipura Branch to Indira Nagar Branch. Later on his services were terminated on 1-2-90 without payment of retrenchment compensation and notice pay which is bad in law.

3. The opposite party has filed reply in which it is denied that the concerned workman ever engaged as a Driver with them. It is alleged that Regional Office at Lucknow was opened in November 1985. One Kalap Singh was appointed as Driver. It is further alleged that Ambassador Car was attached with Regional Manager's Office where as Jeep was attached with Ghoshipura Branch. The driver of Jeep was Baijnath Mishra. Hence there was no occasion for employing a 3rd driver. It is further alleged that there was a scheme of Bank for personal use of bank's car in terms of Regulation no. 26 of Dena Bank Officers Service Regulations 1979. Under these provisions the top executives and Regional Managers were entitled for reimbursement of expense for personal drivers. The concerned workman was such personal driver of the Regional Manager. He had no connection with the official vehicle of the Bank. It is also denied that the concerned workman was ever paid cycle advance or T.A.

4. In support of his case, the management has filed Ext. M-1 to M-47 copies of attendance register, advance sanction register, receipts and general guidelines and further copies of Regulation 26 of Dena Bank Officers Service Regulations, the

attendance register have been filed to show that the concerned workman does not figure in this attendance register. Hence he was never engaged as a driver. Advance sanction register has been filed to show that no cycle advance was given.

5. In rebuttal the concerned workman has filed the receipts of National Filling Station showing that the concerned workman had got petrol filled in Jeep in question. Further there is slip by which the concerned workman has been asked to report on duty on 21-7-89 at a particular place. There is another letter dt. 21-11-88 of identical nature. There are other letters dt. 20-3-90 to show some records were received from Ghanshyam by the Branch Manager. There is log book maintained by concerned workman relating to UGO 2566. No explanation has been given on the side of the management as to how these papers relating to Jeep came out from the possession of the concerned workman. In other words there is unimpeachable documentary evidence to show that the concerned workman had been dealing with a jeep in question as a driver. In this back ground also the evidence may be examined. In his examination in chief the concerned workman has deposed about the contents of the claim statement. In his cross examination he has admitted that in Ghoshipura Branch there was one Baijnath Mishra by the name. However, he had added that he was driving vehicle of cash branch. He has denied that he was personal driver of Regional Manager. He was paid wages through vouchers.

6. In rebuttal there is evidence of A K Singh Manager. He has stated that at the relevant time he was Manager. In 1987 there was Harihar Singh Driver by the name. The concerned workman was personal driver of the Regional Manager. He was never paid any T.A. or Cycle Advance. Later on he has admitted that Ghanshyam used to drive the Jeep. Thus from the above evidence it stands admitted to the management that the services of the concerned workman were utilised as driver of the Jeep in question of the opposite party. Unless the concerned workman was engaged as a driver he could not have been permitted to drive the jeep in question. As regards the plea and evidence of the opposite party regarding workman being the personal driver of the Regional Manager, the same is cloak to cover the unfair labour practice of engaging driver for doing actual work of the bank through fake vouchers. The name of the vehicle of Regional Manager has not been given for which the concerned workman is said to have been engaged.

9. Thus in view of the above discussions, in my opinion the case of the concerned workman is fully proved. Hence my finding is that the concerned workman was the driver of the opposite party Dena Bank. My further finding is that his services has been terminated as alleged by him. Admittedly no retrenchment compensation and notice pay is given to him hence his termination is bad in law. Consequently, he is entitled for reinstatement with back wages.

10. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

सं दिवसी, 1 जून, 1996

का.आ.1918.—औद्योगिक विवाद अधिनियम, 1917 (1947 का 11) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार के तारा बैंक के प्रबन्धन के संबंध त्रिषोःकों और उनके कर्मचारियों के बीच, अतुल्य से निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचयत को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-96 को प्राप्त हुआ था।

[सं. एल-12012/205/88/डी-II ए/आई आर (बी-II)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 4th June, 1996

## ANNEXURE II

S.O. 1918.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workmen, which was received by the Central Government on 3-6-1996.

[No. L-12012/205/88-D.II(A)/IR (B-II)]  
BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 169 of 1988

In the matter of dispute :

BETWEEN

Sri Mahavir Singh  
Gram Pudhari Post Aani  
District Meerut, U.P.

AND

Assistant General Manager,  
Canara Bank Circle Officer,  
Disciplinary Cell, Marshal House,  
Parliament Street, New Delhi.

## AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-12012/205/88-D.2 (A) dated 9-11-88 has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Canara Bank in discharging from service Sri Mahabir Singh w.e.f. December 1985 is justified? If not to what relief is the workman entitled?

2. The concerned workman at the material time was posted as clerk in the Ghaziabad Branch of the opposite party Canara Bank in 1978. He was chargesheeted on 3-11-83 for opening of fictitious saving banks account in the name of Rajbir Singh and for misappropriation of Rs. 8466/- In due course enquiry was held and charge regarding misappropriation was found to be not proved whereas charge for opening of fictitious saving bank account was held to be proved. On the basis of this finding the appointing authority passed order of discharge. That discharge order is the subject matter of instant case. In the claim statement fairness and propriety of domestic enquiry was questioned whereas the management denied it. Hence a preliminary issue was framed regarding fairness of domestic enquiry. By order dated 19-2-1996 it was held that this domestic enquiry was fairly and properly held. Hence, the case was fixed for arguments on quantum of punishment.

3. I have heard both sides on the quantum of punishment. In my opinion, the misconduct of opening of fictitious saving bank account by an employee of the Bank is certainly a grave offence shaking the confidence of the employer. It would render the employee unfit for service. Hence, in my opinion, punishment by way of discharge is quite commensurate to the proved misconduct and it does not call for interference.

4. Hence, my finding is that the action of the opposite party Canara Bank in discharging the concerned workman Mahabir Singh from bank's services is justified and the concerned workman is not entitled for any relief. The finding of domestic enquiry dated 19-2-96 shall form part of this Award.

5. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer.

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 169 of 1988

In the matter of dispute between :

Shri Mahavir Singh,  
Village-Poothari,  
P.O. Aani  
District-Meerut, (U.P.).

AND

Assistant General Manager,  
Canara Bank,  
Circle Office (South),  
Anushasan Scl, Marshal House,  
Parliament Street,  
New Delhi.

## FINDINGS ON PRELIMINARY ISSUES

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-12012/205/88-D.2(A), dated 29th November, 1988, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Canara Bank in discharging from service Shri Mahavir Singh, Clerk December 1985 is justified? If not, to what relief is the workman entitled?

2. The concerned workman Mahavir Singh was also posted as clerk in the Ghaziabad Branch of opposite party Canara Bank in the year 1978. Following charge was made against the concerned workman on 3-11-83 by Dy. General Manager for his certain acts of omission and commission—

"You are working in our Ghaziabad Branch since 16-9-78. Sri Mahavir Singh S/o Sri Nathu Singh, Village Jabulpur is maintaining an SB Account No. 2385 at our Ghaziabad Branch. This account was opened on 24-11-82. One more account in the name of the same person was opened bearing No. 2478. This account was introduced by you. On 12-2-83 an amount of Rs. 8,483 was credited to the SB Account No. 2478, being the proceeds of a cheque for Rs. 8436.00 issuing a cheque No. 422151 an amount of Rs. 8,400 was withdrawn on 18-2-83 and by cheque No. 422153 an amount of Rs. 50 was withdrawn on 22-2-1983. A complaint was received from Sri Rajbir Singh, account holder of SB Account No. 2385 alleging that the payment received from the office of the Provident Fund Commissioner, Meerut for Rs. 8,486 which was due to him has been credited to another account and has been withdrawn fraudulently. A letter from the office of the Regional Provident Fund Commissioner was also obtained informing about the fraudulent encashment of Rs. 8,486 at Ghaziabad Branch. It is now found that the account holder of SB A/c No. 2478 is not traceable and the account is fictitious. The sequence of events leading from the date of opening of account and the commission of the fraud and the verification of documents point out your complicity and involvement in the matter. We have reasons to believe that you have knowingly committed/abetted commitment of the above fraud and misappropriated the funds of the Bank/its customer.

By your above actions you have actually abetted/caused damage to the property of the customer of the Bank/Bank and thereby committed gross misconduct within the meaning of Chapter XI, Regulation 3 clause (b) of Canara Bank Service Code.

Your above actions being prejudicial to the interests of the Bank you have committed gross misconduct within the meaning of Chapter XI, Regulation 3, clause (m) of the Canara Bank Service Code.

One officer of the bank N. Rajendra was appointed as enquiry officer. After recording evidence of parties he submitted his report on 31-5-85. He had held that charge of opening of fictitious saving bank A/c No. 2478 in the name of Rajvir Singh was made out where as the other charge regarding misappropriation of Rs. 8486 was not made out. The enquiry officer made a recommendation for discharge. Agreeing with this report and recommendation the disciplinary authority has passed the order of discharge. Feeling aggrieved by this discharge order the concerned workman has raised the industrial dispute.

3. In the claim statement fairness and propriety of enquiry report was challenged in a variety of ways. Further the discharge order has also been assailed on a number of grounds which need not to be considered in the present order. The same will be considered as and when quantum of punishment is taken into consideration.

4. The opposite party bank in his written statement has alleged that the enquiry was fairly and properly held. Hence following preliminary issues were framed:-

1. Whether the enquiry was not conducted fairly and properly in accordance with the principles of natural justice?
2. Whether the findings given by the enquiry officer and accepted by the disciplinary authority is perverse being not based on evidence?

For holding a fair and proper enquiry it is to be seen as to whether chargesheet was served upon the delinquent whether delinquent was afforded opportunities to cross examine the witnesses of the management, whether the delinquent afforded opportunity to adduce evidence in defence and lastly whether the findings are based on proper appropriation of evidence. Obviously charge sheet dated 3-11-83 was brought on record. The concerned workman did not dispute that he was served with this chargesheet. The only objection of the concerned workman is that it has not been issued by a competent authority and further it contents are vague.

The management has filed copy of Rules. Rule 8 of the same shows that Dy. General Manager is the disciplinary authority of all the clerks. Hence I do not find any force in the plea that Dy. General Manager had no authority to issue the chargesheet.

As regards vagueness in the chargesheet I do not find any. A perusal of chargesheet would go to show that it comprises of two paras one relates to opening of fictitious Saving Bank account No. 2478 in the name of Rajvir Singh by the concerned workman and the second relates to misappropriation of amount of 8486. The second charge has been held to be not proved and further as the concerned workman has not been punished for this count, it is needless to examine the alleged vagueness of charge in this regard.

As regards opening of S/B account No. 2478, there can be no manner of doubt that it is quite explicit and intelligible to a person possessing even a shade lower than ordinary common sense. In this way I come to the conclusion that there is no vagueness in the charges. Accordingly in the end it is held that the concerned workman was duly served with a proper chargesheet.

While giving finding the enquiry officer had pulled out following five points and had answered one by one—

1. Whether SB Account No. 2385 in the name of Sri Rajbir Singh was opened on 24-11-82.
2. Whether one more account in the name of Sri Rajbir Singh bearing No. 2478 was opened. If so, who has introduced this account.
3. Whether a sum of Rs. 8473 being the proceeds of cheque issued by the Provident Fund Commissioner, Meerut was credited to Saving Bank Account No. 2478 and subsequently whether any amount has been withdrawn from the said account.

4. Whether Rajbir Singh, who is holding SB Account No. 2385 complained to the branch about the fraudulent withdrawal of his PF amount.
5. Whether Mr. Mahavir Singh committed fraud and misappropriation the funds of the bank customer.

I am of the opinion, that there was no need to determine the first point as it was not disputed to the workman that Rajbir Singh was already having Saving Bank Account No. 2385. As regards the second point, I am of the opinion, that the enquiry officer ought not to have framed the first part of the issue at all as both the parties agree that another saving bank account No. 2478 in the name of Rajbir Singh was opened in this Ghaziabad Branch. Of course the second part of this issue was relevant. For proving this charge, the management had adduced the evidence of Smt. Mayatara Chandani the then Accountant, Rajbir Singh, the account holder and C. Badri the enquiry officer. In defence the concerned workman Mahavir Singh had examined himself. From the appraisal of evidence of Smt. Mayatara Chandani, it becomes apparent that earlier she was hesitant in opening account No. 2478 in the name of Rajbir Singh as he was not properly introduced. Later on Mahavir Singh approached her and also signed the column of introducer. The explanation of the concerned workman that he had signed it to verify the signatures of S. P. Singh is after thought and has been rightly held to be so by the enquiry officer. Further Rajbir Singh has also stated that he was not present when his Saving Bank Account No. 2478 was opened. He came to know later on. C. Badri the investigating officer of the bank had also stated that during the course of investigation he had come to know that concerned workman had introduced Rajbir Singh. On the basis of this overwhelming evidence the enquiry officer has rightly rejected the evidence of concerned workman denying this fact in any case. I am of the opinion that this conclusion is based on reasonable appreciation of evidence and as such cannot be said to be perverse by any stretch of imagination.

It does not appear to reason nor the concerned workman has been able to show as to why Smt. Mayatara Chandani, the then Accountant and Rajbir Singh would depose against him. It was contended on behalf of the authorised representative of the workman that police had not found it a fit case for investigation, hence it could believe the finding of the enquiry officer I do not agree with this contention as investigation by the police is not based on evidence on oath. Further there is vast difference between investigation and enquiry.

Thus it is held that the finding of the enquiry officer in this regard is not perverse.

Point Nos. 3 and 4 as called out by the enquiry officer no longer remains germane.

As regards point No. 5 it need not be considered as finding in this regard has already gone against the management. Further because of negative finding on point No. 5 my conviction is reinforced that enquiry officer was independent and not a stooge in the hands of the management.

Thus in view of above discussions, it is held that enquiry was fairly and properly done and finding is not perverse. Thus both the issues are decided.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 जून, 1996

का.आ.1919 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम् ई सी एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कार्यालयों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[नं. एल-21012/5/88-डी-III (बी) एल-21012/7/88

डी-III (बी)]

राजा लाल, ईस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1919.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S. E. C. Ltd. and their workmen, which was received by the Central Government on the 28-5-96.

[No. L-21012/5/88-D.II(B)  
L-21012/7/88-D.II(B)]

RAJA LAL, Desk Officer

#### ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR (M.P.)

1. CASE REF. NO. CGIT/LC(R)(58)/1988  
(Notification No. L-21012/5/88-D. II(B) Dated  
8-6-88)

In respect of Shri Ram Prasad, Store Keeper,  
Clerk Gr. I.

#### AND

2. CASE REF. NO. CGIT/LC(R)(49)/1988  
(Notification No. L-21012/7/88-D. II(B) Dated  
12-5-88)

In respect of Shri A. K. Srivastava, Overseer.

C/o Shri D. L. Agarwal, Office Supdt. Rungta  
Colliery, District Shahdol (M.P.)

#### VERSUS

General Manager, Sohagpur Area of S. E. C. L.  
P.O. Dhanpuri, District Shahdol (MP) and The  
Deputy Chief Mining Engineer/SAM, Dhanpuri  
OCM, P.O. Amlai Colliery, District Shahdol (MP).

PRESIDED IN : By Shri Arvind Kumar Awasthy.

#### APPEARANCES :

For Workmen : Shri S. K. Rao, Advocate.

For Management : Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mines DISTRICT : Shahdol  
(M.P.)

#### AWARD

Dated : March 12, 1996

These are two references made by the Central Government, Ministry of Labour, New Delhi, for adjudication of the following industrial dispute :—

REF. No. CGIT/LC(R)(58)/88.

"Whether the action of the management of Sohagpur Area of South Eastern coalfields Limited, Post Dhanpuri, Dist. Shahdol (MP) in dismissing their workman Shri Ram Prasad, Store Keeper, Clerk Grade I, Central Stores, Burhar, vide Office Order No. PD/134/87/354 dated 7/10-3-1987 is

justified. If not, what relief the workman is entitled to ?"

REF. No. CGIT/LC(R)(49)/88.

"Whether the action of the management of Dhanpuri Opencast Mines of Sohagpur Area of SECL Post Amlai Colliery, District Shahdol in dismissing their workman Shri A. K. Srivastava, Overseer (Civil) employed in Dhanpuri Opencast Mines vide Office Order No. SECL/SAM/D/86/274 dated 25-3-1987 is justified. If not, to what relief the workman is entitled to ?"

2. Both the above referred cases were consolidated by my learned predecessor vide Order dated 6-3-1992.

3. Admitted facts of the case are that Shri Ram Prasad was working on the post of Store Keeper in Central Store, Burhar and Shri A. K. Srivastava was working as Overseer (Civil) at Dhanpuri Opencast Mine.

4. It is also the common ground that the charge-sheet dated 5-8-86 (Annexure A) was issued against both the workmen on the allegation that on 1-8-86 in Truck No. MPC-5769 six tonnes of M.S. sheets were loaded instead one tonne of M. S. Sheets with the intention to commit theft and fraud of the property of the management, that the departmental enquiry was conducted against both the workmen and both the workmen were dismissed from the service by the impugned order.

5. The case of both the workmen, Ram Prasad and A. K. Srivastava, is that they were falsely implicated in the case of conspiracy to commit the theft of M. S. Sheets because of the illwill of the superior officers. They have alleged that the charge levelled against them were false and the proper opportunity was not granted to them by the Enquiry Officer to defend the case. The workmen have alleged that there is no evidence against them to implicate the charge of theft of M. S. Sheets and as such the order of dismissal be quashed and they be reinstated with full back wages.

6. The case of the management is that on 1-8-86 Shri A. K. Srivastava was on duty as Overseer (Civil) in Dhanpuri O. C. Mines and the Superintending Engineering (E&M) Dhanpuri OCM raised an indent dated 24-7-86 for issue of one Tonne M. S. Plates of 3.15 MM Size; that Shri A. K. Srivastava took the indent and went to Steel Yard of Central Store, Sohagpur Area, at about 10 a.m., that Shri A. K. Srivastava in collusion with Shri Ram Prasad, Store Keeper of Central Store Burhar, got loaded 66 M.S. Plates of 3.5 mm in Truck No. MPC-5789 while the indent was only for one Tonne M.S. Plates; that Shri Bhim Bahadur, Security Guard, at the Gate of Central Store, Steel Yard, checked the Truck and found that the number of plates was not mentioned in the Gate Pass, that Shri Ram Prasad, Store Keeper, persuaded the Guard, Shri Bhim Bahadur, to open the gate for taking out the truck; that the truck was seized and it was found

that 60 plates were unloaded at an unauthorised place i.e. the premises of Mining Equipment Manufacturing Department located at Burhar-Rungta; that both the workmen allowed the truck to be taken out without the weighment of the steel plates. That the incident was reported to the police. Management has alleged that on account of the conspiracy hatched by both the workmen sixty steel plates; were unauthorisedly taken away from the Central Store and they were unloaded at an unscheduled place in order to commit the theft of the M. S. Plates.

7. Following are the issues framed in the case :—  
**ISSUES**

1. Whether the domestic/departamental enquiry is proper and legal ?
2. Whether the punishment awarded is proper and legal ?
3. Whether the management is entitled to lead evidence before this Tribunal ?
4. Whether the termination/action taken against the workman is justified on the facts of the case ?
5. Relief and costs ?

8. ISSUES No. 1 & 3 : My learned predecessor has held that the principles of natural justice were violated during the domestic enquiry and it has vitiated. Parties were directed to lead evidence with regard to the charges relating to the misconduct of the workmen. As already stated above, my learned predecessor has consolidated both the references vide order dated 6-3-1992.

9. Management has examined 10 witnesses and produced 19 documents to prove the misconduct against both the workmen. The workmen have examined themselves. The written arguments filed by the management and by both the workmen.

10. ISSUES No. 2, 4 & 5 : I will first deal with the case of Shri Ram Prasad, Store Keeper. The allegation against the workman, Ram Prasad, was that while he was working as Store Keeper on 1-8-86 he conspired with Shri A. K. Shrivastava, Overseer and against the requisition Ex. M|14. The workman, Ram Prasad, released 66 M. S. Sheets, Workman, Ram Prasad, has clearly admitted that at about 11 a.m. on 1-8-86 Shri A. K. Shrivastava, Overseer came to him with the requisition (Ex. M|14) for loading M. S. Sheets weighing one tonne. Shri Ram Prasad has clearly admitted that the steel plates were got loaded by him in Truck No. MPC-5769. The defence of the workman, Ram Prasad, is that he got loaded only 11 sheets on the truck while the case of the management is that Ram Prasad got loaded 66 M. S. Sheets on the truck. The star eye witness to this effect is Bhim Bahadur, Security Guard, who was posted at the gate of the Central Store to check the truck and allow the truck to pass after verification of the Gate Pass.

11. Bhim Bahadur (M.W.3) has clearly stated that on 1-8-86 at the Steel Yard of Central Store, Sohagpur, he was posted as Security Guard on the

main gate and the steel plates loaded in the truck were accounted by him which was 66 in number. Ex. M|17 is the register maintained at the Gate from Shrivastava in taking out 66 steel sheets, instead of Truck No. MPC-5769. There is nothing in the cross-examination of Bhim Bahadur to doubt his testimony.

12. Shri Ram Prasad requested Shri Bhim Bahadur (M. W. 3) to open the Gate of Steel Yard for taking out the truck. Consequently, it will be presumed that Shri Ram Prasad knew that 66 steel plates were loaded on the truck against requisition (Ex. M|14). Shri Ram Prasad has clearly admitted in para 9 of his affidavit that the number of steel plates and the weight of the steel plates was not mentioned by him on the Gate Pass (Ex. M|16). Shri Ram Prasad has also not taken the signature of Shri A. K. Shrivastava on Gate Pass Ex. M|16. Thus the vital circumstances of the case that Ram Prasad did not mention the number of plates and its weight and without obtaining the signature of Shri A. K. Shrivastava, helped Shri A. K. Shrivastava in taking out 66 steel sheets, instead of 11 steel sheets proves that Shri Ram Prasad was involved in conspiracy of dishonestly removing the steel plates from the Store. The defence of Shri Ram Prasad is that he got loaded only 11 sheets in the truck and not 66 sheets is false. The truck driver has stated that 66 sheets were got loaded in the truck and from the statement of Security Guard it is clear that 60 steel plates which was unloaded from the truck MPC-5769 were seized from the premises of Mining Equipment Manufacturing Department located at Burhar-Rungta Colliery. However, the dishonest intention of Shri Ram Prasad is clear from the fact that Shri Ram Prasad allowed the truck to leave the store without having weighment of the material and inspite of the fact that Shri Ram Prasad was asked to get it weighed by Shri Bahadur, the Security Guard. Consequently, the defence of the workman, Shri Ram Prasad, is without any substance and from the oral, documentary and circumstantial evidence it is fully proved that the workman, Shri Ram Prasad, was involved in the commission of the theft of M. S. Plates of the Central Stores.

13. Now the evidence produced before the Tribunal on the alleged misconduct against Shri A. K. Shrivastava, will be discussed.

14. Shri A. K. Shrivastava has clearly admitted that on 1-8-86 he went to fetch M. S. Plates as per requisition (Ex. M|14). Shri A. K. Shrivastava has further admitted in his affidavit that Shri Ram Prasad was Store Keeper and at about 11 a.m. Shri Ram Prasad got loaded the M. S. Sheets on the truck as per requisition (Ex. M|14).

15. Defence of Shri A. K. Shrivastava is that the alleged truck MPC-5769 was not taken away by him (A. K. Shrivastava) and that when he came back at 3 p.m. he found that the truck was not in the Store premises. In view of the aforesaid admission in the affidavit of Shri A. K. Shrivastava and the defence taken by Shri A. K. Shrivastava, the only point to be seen is whether the truck containing 66 M. S. Plates were taken out from the store by Shri A. K. Shrivastava or the truck passed from the Store without the knowledge of Shri A. K. Shrivastava.

16. Shri Bhim Bahadur (M.W.3) has stated that the steel plates were personally verified by him and they were 66 sheets and that when the truck taken away from the Gate, Shri A. K. Shrivastava was not there. Shri Bhim Bahadur has clearly stated that earlier Shri A. K. Shrivastava was present. It is not in dispute that the Gate Pass (Ex. M/16) bear the signatures of Shri A. K. Shrivastava. Shri A. K. Shrivastava went along with the requisition (Ex. M/14) to fetch the sheets and Gate Pass Ex. M/16 bears the signatures of Shri A. K. Shrivastava. Consequently, it will be presumed that the truck MPC-5769 moved out from the Store under the supervision of Shri A. K. Shrivastava. It is pertinent to note that Shri A. K. Shrivastava has not reported the matter that in his absence the truck has left the place with the material and even at the time of the report of the theft of the steel plates Shri A. K. Shrivastava has not taken the defence that the truck moved out without his consent or connivance. In Gate Pass Ex. M/16 the number of plates and weight of the plates were not recorded. Both Gate Pass and requisition had the signatures of Shri A. K. Shrivastava. The requisition Ex. M/14 was only for 11 sheets and as such it was necessary that the Gate Pass should have the number of plates received by Shri A. K. Shrivastava. The weighment of the plates were done in order to fill the Gate Pass, but Shri A. K. Shrivastava took the material and the Gate Pass without the weighment of the steel sheets.

17. R. N. Ojha, Deputy Material Manager, has stated that Shri Bhim Bahadur, Security Guard, reported him that the truck has moved the place without the weighment of the loaded material and Shri Ram Prasad has requested him to allow the truck to move out from the premises. B. K. Shrivastava, Hawaldar, has also stated that Bhim Bahadur reported him that Shri A. K. Shrivastava has taken 66 steel sheets in the truck without its weighment. Shri A. J. Ingle, Security Inspector, has stated that he along with B. K. Shrivastava, Wankhede Hawaldar and the Driver of the truck went to Burhar-Rungta road where 60 number of plates were unloaded. The workman, Shri A. K. Shrivastava, has not asked any question from A. J. Ingle to the effect that the truck was taken out by the Driver from the store in his absence. Similarly the workman, Shri A. K. Shrivastava, has not made any suggestion in the cross-examination of Sardul Singh, R. N. Wankhede, Sheikh Israil and Harihar Ram to the effect that the material was taken out from the store and unloaded on an unauthorised place Shri A. K. Shrivastava was not, present there.

18. From the statement of Sardul Singh (M.W.5) it is clear that Shri A. K. Shrivastava has no authority to collect the material from the Central Store Steel Yard. However, the voucher Ex. M/14 was in possession of Shri A. K. Shrivastava and as such it will be presumed that he had the authority to collect the material from the Central Store. But it was incumbent and it was the duty of Shri A. K. Shrivastava to accompany the material and see that the material is delivered to the exact destination. Shri A. K. Shrivastava has not accompanied the material and the material was unloaded at the destination which

was not mentioned in the Ex. M/14. This circumstance goes to show the complicity of Shri A. K. Shrivastava and the conspiracy to commit theft of material.

19. The Judicial Magistrate First Class, Burhar, Shahdol, has acquitted both the workmen, Shri Ram Prasad and Shri A. K. Shrivastava vide his judgment dated 13-9-91 and it is clear from Para 50.51 of the judgment that the acquittal was on the ground that the prosecution has failed to prove the case beyond reasonable doubt. Learned Judicial Magistrate has not observed that both the workmen were not involved in the offence and the acquittal was on account of benefit of doubt.

20. In the case where the Store Keeper and the Overseer who are well conversant with the working of the management indulge in such types of conspiracy to commit the theft, then it is difficult to get the direct evidence to prove the charges. In case of *Shivnarayan Laxminarayan Joshi and others Vs. State of Maharashtra and others* (AIR 1980 SC 439) it is held that conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the conspirators in pursuance of a common design. Consequently on the basis of aforesaid evidence it is fully proved that both the workmen conspired to commit theft and in pursuance of their conspiracy the property of management was stolen.

21. The action of the management in dismissing Shri Ram Prasad and Shri A. K. Shrivastava, workmen concerned in both the references is justified. Workmen are not entitled for any relief. Parties to bear their own costs.

ARVIND KUMAR AWASTHY, Presiding Officer

नई दिल्ली, 4 जून, 1996

का. घा. 1920.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस्.सी.सी.एल. के प्रवन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध के निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-5-96 को प्राप्त हुआ था।

[सं० एल-22012/85/38-डी-IV (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 4th June, 1996

S.O. 1920.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad, as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd and their workmen, which was received by the Central Government on the 29th May, 1996.

[No. L-22012/85/88 D-IV(B)]

RAJA LAL, Desk Officer

**ANNEXURE**  
**BEFORE THE INDUSTRIAL TRIBUNAL-I**  
**AT HYDERABAD**

**PRESENT :**

Sri A. Hanumanthu, M.A., LL.B. Industrial Tri-  
Dated the 14th day of February, 1996  
INDUSTRIAL DISPUTE NO. 10 OF 1989

**BETWEEN :**

The Chief Vice President, Central Council  
Singareni Collieries Workers Union, P.O.  
Bellampalli, Distt. Adilabad. Petitioner  
**AND**

The Chairman & Managing Director, Singareni  
Collieries Company Limited, Kothagudem.  
Respondent

**APPEARANCES :**

Sri B. Ganga Ram, Chief Vice President, Central  
Council, S.C. Workers Union for the Petitioner.

M/s. K. Srinivasa Murthy and G. Sudha, Advoca-  
tates for the Respondent.

**AWARD**

This is a reference made by Government of India, Ministry of Labour, by its Order No. L-22012(85)/88-D.IV.B dated -12-1989 under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 (herein-after called the Act) for adjudication of the dispute mentioned in its schedule which reads as follows :

"Whether the action of the Management of Singareni Collieries Co. Ltd., in denying full musters and wages to their workmen for 14th and 16th July, 1987 when the officers of the Company went on mass casual leave, is legal and justified ? If not, to what relief the workmen are entitled?"

The said reference has been registered as Industrial Dispute No. 10 of 1989 on the file of this Tribunal. After receiving the notices issued by this Tribunal, both parties put in their appearance and they are being defended by their representatives.

2. The material averments in the claims statement filed on behalf of the Petitioner are as follows :—The issues involved in this industrial dispute and in I.D. No. 12 of 1989 are common, that all the officers of the Singareni Collieries went on mass casual leave and the management declared illegal lockout on 14th and 16th July, 1987 in different mines and different divisions and Areas and the issue in I.D. No. 12 of 1989 is covered in I.D. No. 10 of 1989. On 16-7-1987 all officers i.e. Colliery Managers, Assistant Managers and Under Managers and other officers of the Engineering Department in all Mines of Singareni Colliery except Ramagundam Area went on mass casual leave. The workers came to the mines to attend to their duties but Managers and Under Managers who came to the Mines did not show any work to the workers and they went away stating that they were on mass casual leave. The General Managers arranged to put notices on all the mines that lockout was declared. Thus, the Management

closed the place of employment temporarily and refused to employ workmen in all mines, and thus lockout has been declared in all the mines illegally. On 17-7-1987 a telegram was issued to the Regional Labour Commissioner (Central), Hyderabad stating that the Management had declared illegal lockout on 16-7-1987 as the officers went on mass casual leave and demanded wages for 16-7-1987. The action of all the officers by going on mass casual leave does not come under the definition of 'strike' and the officers do not come under the definition of "workmen" under the Act and the arguments of the management that the action of the officers going on mass casual leave amounts to "strike" is baseless and illegal. Whenever different sections of workers or all workers go on strike, these officers were not locked out but they were allowed to continue their work and they were paid full salaries on those days also. Under Regulation Nos. 31(1)(A) and 31(7) of Mines Regulations 1957 no mine shall be opened, worked or re-opened unless there is a manager of the mine. But for any reason, the Manager is unable to exercise to perform his duties, he should authorise in writing a person whom he considers competent to act as Manager of the Mines provided that such persons holds a manager's or overman's certificate. The failure of the Management of the Respondent Company to show work to the workers of all Mines in three shifts on 16-7-1987 is nothing but illegal lockout. Therefore, the workers of all the mines are eligible to get full musters (wages) for 16-7-1987. Hence an Award may be passed directing the Respondent to pay full wages for 16-7-1987.

3. On behalf of the Respondent Company, a counter has been filed to the following effect : It is true that the points for consideration in both the industrial disputes i.e. I.D. No. 10/89 and 12/89 are one and the same. One Sri L.K. Das was working as Deputy Chief Mining Engineer/Agent in the Mines at Godavari Khani. He was appointed as Agent under Section 2(c) of the Mines Act. On 13-7-1987, he returned to his house from the Mine at about 8.40 p.m. and at that time some disgruntled elements assaulted him and he succumbed to the injuries on 15-7-1987. A brutal attack on the life of Sri L. K. Das had caused panic and feeling of insecurity to the lives of officers and their families, as they were seriously trying to maintain discipline in the Mines. The law and order situation was very tense. The other Mines Managers and other executives were terribly un-set because of brutal attack on the life of Sri L. K. Das who was one of the senior most, sincere and honest and hardworking officer. The interested persons who were responsible for the brutal assault on Sri L.K. Das also infiltrated unsocial elements into the Mines areas and it resulted in Officers incharge of various mines and establishments going on mass casual leave. Though the Management did not accept their casual leave, they did not attend duties as they were scared of their lives. Several officers were threatened of dire consequences. Under the Coal Mines Regulations a Mine cannot be operated without the persons of the Mines Manager and other officers who have statutory certificates to operate the Mine. The Mines Supervisory staff had refused to take up the responsibility of the safety of the workman as well as the Mines if they are engaged in the mine on

14-7-1987. The Mines staff and all the officials under the Mines Act refused to be authorised to act as Mines Manager. After great persuasion some of the staff agreed to work as essential staff for ventilation, dewatering etc., in the Mine. In view of the serious law and order situation and keeping in view of the peace, violations and breach of Company's property, a decision was taken to declare lockout of workers of the Mines except the essential staff and accordingly lockout was declared. The Petitioner Union and all other Unions are aware of the said fac's. The allegation that the lockout is illegal is not correct. The lockout declared for the workmen consequent upon the concerted absence of another section of employees attracts Section 24(3) of the Act. Therefore, the management is within its right to declare lockout under the circumstances explained and in view of the grave law and order situation and uncertainty prevailing in areas. The tense situation in Godavari Khani slowly spread over to all the Mines and departments in all the areas of Singareni Collieries like Bellampalli, Mandamarri, Ramakrishnapur, Kothagudem, Yelladu and Manuguru etc. In all areas, officers were given threats. As such the Managers and executives who are the statutory persons in view of the apprehensions found that the situation is not in their control and it was practically difficult for them to manage the Mines. Therefore, in some areas lockout was declared on 14-7-1987 and in some areas the lockout was declared on 14th and 16th July, 1987. The officers, to protect themselves, were constrained to go on mass casual leave. Some of the under Managers initially came to the Mine, but in view of the tense situation they found that at any moment the event may turn serious and they cannot control the situation. As such to protect themselves they have left the workshop. The executive staff and the statutory staff in the Mines were afraid of the unsocial elements near the Mines and nobody was prepared to take up the responsibility. As the situation was out of control the General Managers locked out the Mines to maintain peace and protect the Mines which are National property. The Officers going on mass casual leave which was not sanctioned, amounts to a concerted action. The refusal of mining officers to accept the responsibility to work in the Mines also is a refusal from work and it resulted in declaration of lockout. The Petitioner Union has misconstrued the factual position and the situation prevailing on 14th and 16th July, 1987 and mass casual leave has nothing to do with regard to the lockout. Every possible step to maintain peace and preserve the life. The action taken by the Management in lockout workers is justified and legal in accordance with Section 24(3) of the Act. The demand raised by the Union is unreasonable and illegal. The Petitioner Union is not entitled to claim the Wages either for 14th or 16th July, 1987 as demanded.

4. On behalf of the Petitioner-Union W.W1 is examined and no documents are marked. On behalf of the Respondent-Management M.W1 and M.W2 are examined and Exs. M1 to M35 are marked. M. Narayana working as Branch Secretary Kothagudem Workers Union and Secretary, Central Council, S.C.

workers union is examined as W.W1 and he deposed to the averments in the claim statement. M.W1 P.A.V.S.S. Sarma is working as Deputy Personnel Manager in the Respondent-Company at Kothagudem and M.W2 is K.G. Sridhar working as Staff Officer of the General Manager of the Respondent-Company. They deposed to the averments in the counter and also with regard to the law and order situation prevailing just prior to the declaration of lockout. The details of the documents Exs. M1 to M35 are appended to this Award.

5. The points that arise for consideration are as follows :

- (1) Whether "the lockout" declared by the Respondent-Management on 16-7-1987 as a sequel to mass casual leave of officers of the Respondent-Company is just and legal?
- (2) Whether the workmen of the Respondent-Company are entitled for wages for the lockout period on 16-7-1987?
- (3) To what relief the workmen are entitled under this reference?

6. POINT (1) :—(i) The admitted fact as revealed from the evidence on record are as follows : The Singareni Collieries Company Limited, Kothagudem, Khammam District is a public sector undertaking set up for extraction and sale of coal. There are 70 Mines under its control, spread over to four districts i.e. Karimnagar, Adilabad, Warangal and Khammam and it is divided into eight areas for the purpose of administrative convenience. About 1.5 lakhs workmen, both skilled and unskilled, are engaged every day in all the said Mines. The Petitioner Union is one of the Unions of the workers registered under the Trade Unions Act.

(ii) On 13-7-1987 at 8.30 P.M. one L. K. Das who was working as Deputy Chief Mining Engineer/Agent in 6-A and 6-B Incline of Ramagundam Area, was attacked with sharp edged weapons by some unknown persons while he was returning to his quarters from the place of work. He sustained multiple incised injuries and he succumbed to the injuries on 15-7-1987 at 2.15 p.m. in Area Hospital, Godavarikhani where he was undergoing treatment. A case in Crime No. 106/87 under Sections 302 and 148 I.P.C. was registered at Godavarikhani Police Station. On account of that incident, the Executives and officers of Ramagundam Region went on mass casual leave as a protest against the attack on L. K. Das, on 14-7-1987 in the first shift. As there were none to attend to the duties of the said officers, the Management declared lockout from the first shift on 14-7-1987. The said lockout was lifted in Ramagundam Area from the second shift on 14-7-1987 as the Overman undertook to operate the Mines operations in the absence of the Colliery Managers and Under Managers.

(iii) On 16-7-1987 all the Officers including the Executives went on mass casual leave in Kothagudem and Bellampalli Regions. As there were none to attend to the duties of the said officers, the Manage-

ment declared lockout w.e.f. first shift on 16-7-1987 in the said Regions. The said lockout was lifted on 17-7-1987 as the Officers resumed for duties.

(iv) The Deputy General Secretary of the workers Union raised a dispute with regard to the lockout declared on 14-7-1987 first shift in Ramagundam Area and this resulted in the reference in I.D. No. 12 of 1989. The Chief Vice President of the workers Union raised a dispute with regard to the declaration of lockout on 16-7-1987 in Kothagudem and Bellampalli Regions and also the declaration of lockout on 14-7-1987 in Ramagundam Region and this resulted in the reference in I.D. No. 10 of 1989. Thus I.D. No. 12 of 1989 relates to the incident of lockout declared on 14-7-1987 and I.D. No. 10 of 1987 relates to the lockout declared on 16-7-1987. The workmen were not allowed to work during the said periods of lockout declared by the Management. Therefore they are now claiming wages for the said lockout periods alleging that the lockouts declared by the Management are illegal and arbitrary.

7. It is contended by the learned representative for the Petitioner Union that the lockout declared by the Management in the first shift on 16-7-1987 is illegal and not justified as the provisions under Section 22 and 23 of the Act are not complied with, that the Officers who went on casual leave and who refused to attend to the duties are not workmen as defined under the Act, that the Management could not deprive the workmen the wages for the lockout period for the dereliction of duties on the part of the Officers and that no action was initiated against the officers who went on mass casual leave and who refused to perform their duties and that the Management, instead of taking action against the erring officers, has resorted to illegal lockouts, thus depriving the workmen of their legitimate wages and therefore the workmen affected by the said illegal lockout are entitled for wages for the lockout period on 16-7-1987.

8. The learned counsel for the Respondent-Management submits that the criminal assault on Sri L. K. Das, Deputy Chief Mining Engineering on 13-7-1987, created terror in the minds of the officers, that the officers did not dare to come the mines and so they went on mass casual leave that the Management authorised the Supervisory staff i.e. the Head Overman who had necessary qualifications under Coal Mines Regulations, to undertake the Mining operations, but they refused to work and therefore, the Management had no option but to declare lockout in the interest of safety of the Mines and the personnel. It is further contended by the learned counsel for the Respondent Management that the Management would have risked prosecution for undertaking operations of the mines without qualified officers or authorised supervisory staff and therefore, under the peculiar circumstances, the lockout had been declared and that it is just and legal.

9. It is not disputed that the Respondent-Management declared lockout in the Mines situated in Ramagundam Areas during the first shift on 14-7-1987 and

also declared lockout in the mines situated at Kothagudem and Bellampalli Regions, on 16-7-1987 as a sequel to the mass casual leave of executives and officers. Section 2(1) of the I.D. Act defines 'lockout' as meaning closing of a place of employment or suspension of work or refusal by an employer to continue to employ any number of persons employed by him. General restrictions on strikes and lockout are to be found in Sections 22 and 23 of the I.D. Act. The provisions of Sections 22 and 23 cumulatively apply to public utility services, while the provisions of Section 23, apply to both the public utility and non-public utility services. Section 24 of the Act lays down the circumstances under which strikes and lockout shall be illegal and under which they shall not be deemed to be illegal. The effect of combined reading of Sections 22 and 23 is that the lockout will be illegal if :—

1. The concern is a public utility concern when,
2. (1) notice required by S. 22(2) has not been given; or
- (2) It has been declared during the period of operation of settlement or award in respect of matters covered by that settlement or award; or
- (3) it has been declared :
  - (i) during the pendency of conciliation proceedings before :—
    - (a) a conciliation officer, or
    - (b) a Board, or
  - (ii) within 7 days from the conclusion of such proceedings, or
- (4) it has been declared during the pendency of :
  - (i) adjudication proceedings before a Labour Court, Industrial Tribunal or National Tribunals; or
  - (ii) within two months after the conclusion of such proceedings or;
  - (iii) during the pendency of arbitration proceedings before an "Arbitrator" or
  - (iv) within two months after the conclusion of such proceedings where a notification under sub-section (3-A) of S. 10-A has been issued."

10. In the instant case, it is not disputed that lockout has been declared by the Management without giving notice of lockout as contemplated under Section 22(2) of the Act. Therefore, the learned representative for the Petitioner Union

submits that the said lockout has to be declared as illegal as it has been declared in contravention of the provisions under Section 22(2) of the Act. The learned counsel for the Respondent-Management, on the other hand, submits that such a notice of lockout shall not be necessary where a strike is already in existence at the time of declaring a lockout as provided under Sub-section (3) of Section 22 of the Act. The learned counsel further submits that in the instant case by their concerted action, by submitting mass casual leave the officers resorted to strike and therefore, the Management had no option but to declare lockout as the mining operations could not be undertaken in the absence of qualified statutory officers. The learned counsel for the Respondent-Management further submits that in the peculiar circumstances prevailing at that time, there was every justification for the Management in declaring lockout and therefore the lockout declared by the Management is just and legal.

11. There is much force in the contentions of the learned counsel for the Respondent. Admittedly on account of the brutal attack on Sri L. K. Das, Deputy Chief Mining Engineer on the night of 13-7-1987, all the Executives and Officers went on mass casual leave. It is a concerted and collaborated refusal under a common understanding among all the officers. It is well settled that a concerted or collaborated refusal, under a common understanding among any number of employees, to continue to work amounts to strike. Vide *Buckingham & Carnatic Company Ltd. v. Their Workmen* [1953 (1) LLJ, page 181] and *National Textile Workers' Union v. Sree Meenakshi Mills Ltd.*, [1951 (II) LLJ, page 516]. By submitting mass casual leave, the officers of the Respondent-Company suspended their work without prior intimation. It is a collective stoppage of work on the part of the officers and without their presence the mining operations could not be undertaken by the Respondent-Company. Under these circumstances it amounts to a strike on the part of the officers and notice of lockout is exempted under Sub-Section (3) of Section 22 of the Act. Therefore, the non-issuance of the lockout notice does not render the declaration of the lockout by the management as illegal under the circumstances of this case.

12. There is also justification for declaration of lockout in view of the deterioration of law and order situation and security in the Regions at that time. Admittedly Sri L. K. Das was brutally attacked on the night of 13-7-1987 while he was returning to his house from the place of work and it had created terror in the minds of the officers, and they went on mass casual leave from the first shift of 14-7-1987 and on account of it the Respondent-Management declared lockout in the mines situated in Ramagundam Area from the first shift of 14-7-1987. It is also admitted that

L. K. Das who was admitted in the Area Hospital, Godavarikhani for treatment, succumbed to the injuries on 15-7-1987. The news about the brutal attack and murder of L. K. Das had spread to other mines and it had created terror in the minds of the officers of Kothagudem and Bellampalli Regions and they went on mass casual leave on 16-7-1987 and on account of it the Respondent-Management declared lockout on 16-7-1987. As regards the law and order situation at that time M. W1 P.A.V.V.S. Sharma working as Deputy Personnel Manager stated thus : "L. K. Das who was working as Deputy Mining Engineer in 6-A and 6-B Inclines, Godavarikhani was attacked on 13-7-1987 at about 8.30 P.M. by some unsocial elements mixed with some workmen, at his residence while he was returning from the place of his work. He received lacerated injuries all over his body. He succumbed to injuries on 15-7-1987 in the Area Hospital at Ramagundam. On 14-7-1987 some of the officers at Ramagundam were threatened stating that they will receive a similar treatment as that to Sri L. K. Das, Panic situation was created. Some of the Under Manager Safety Officers, Managers went to the Mine and there the situation was also tense. Apprehending danger to their lives, they applied for casual leave on 14-7-1987. Under the circumstances, the Management decided to declare lockout apprehending danger to the peace, installations, equipment, mine explosives etc. Sri L. K. Das died on 15-7-1987 afternoon and all the Areas in Singareni Collieries except Ramagundam. Threat has been thrown to the officers and there also the situation became panic. Under the apprehension that the unsocial elements scattered to all the areas, Bellampalli, Mandammarri, Ramakrishnapur, Srirampur, Kothagudem, Yellandu, Manguru and there also similar situation has arisen and Overmen refused to accept the responsibility entrusted to them for working of the Mine. However on persuasion they accepted to carry out the statutory functions of the Manager limited to the inspection of Mine. Karimnagar District, Warangal and Adilabad District are disturbed areas where militant activities are existing. The officers of the Singareni Co. are under constant threat and facing difficulties to carry the day to day functions. Prior to the death of L. K. Das, there were instances where one of the General Manager Mr. Talpakar was beaten. One Laxminarayana, Dy. Chief Mining Engineer was killed and one Mr. J. M. Prasad was also beaten. Recently one Mr. Vasanth Kumar Colliery Manager was attacked by sharp instruments and escaped death by grace of God. "In his cross examination M.W1 stated thus : "It is true that on 16-7-1987 in Bellampalli and Kothagudem Divisions, all the Mines were locked out in three shifts. The reason for declaring lockout was that the officers due to life threats given by some unsocial elements mixed with the workmen and also consequent death of Sri L. K. Das

who was attacked on 13-7-1987, did not attend to their duties. To operate the mines, without the statutory personnel amounts to violation of Coal Mines Regulations. Hence lockout was declared. All the officers went on mass casual leave on 16-7-1987 and the same was rejected by the Management. It was treated as absent on the part of the officers. The Management considered the action of the Officers in applying casual leave enmass as an illegal strike". M.W2 who was working as Superintendent of Mines in Samagundam 1 Incline in the year 1987, deposed with regard to the law and order situation in that mine during that relevant period. "Our Mines are 10 KMs. away from Bellampalli Station, Sri L.K. Das, Dy. Chief Mining Engineer was working for 6-A Inclines at Ramagundam. On 13-7-87 night Sri L.K. Das while he was getting down from the car, four persons with masks attacked him and his wife and child who saw the incident because of fear went away. They went inside the house. The neighbours informed us by wireless. That L. K. Das was exed at 8.30 P.M. and we received the information at 11 O'clock. He died in the hospital on 15-7-1987 at 1.30 P.M. On 14-7-1987 to discharge my duties I have gone to the Mine and I found workers in groups discussing about the assault. Some of the workers who were present told that officers should be treated like Das was treated. After hearing this I went to the Distribution Point where I found some under Managers and collected the night shift report and gave instructions to work i.e. first shift of 14-7-1987. I have not informed to the Under Managers the discussion and threats which I heard from the workmen. When I gave instructions to work, the Under Managers informed me that the workers were giving threats in different tone. Saying that as L. K. Das was treated all those officers should be treated so I assured the officers that I will take up this issue with the General Manager of the Area and I informed that I will be on the spot and asked him to carry out the duties. I went to the spot and saw that work should go on. At 4 O'clock on 14-7-1987 when I was collecting shift reports, the Under Manager informed that in the underground the workmen given threats not to execute the work as per norms. Under these circumstances the Under Managers expressed it very difficult for them to discharge their normal duties.

In view of the threats I informed that General Manager in the evening. The General Manager assured the officers stating that the security will be given and he will be talking to the Chairman of the Company. I in turn communicated to all the officers of the Mines assuring the protection I requested them to carry out the work on 15-7-1987. On 15-7-1987 I went to the Mine. In 1st shift I did not find any improvement in workers. The same

threat was continued. "Doralanu Kooda Doss No. Chempinatlu Champali" Because of this threat I was also demoralised and I mustered courage and tried to discharge my duties. The development on that day was that the Supervisory staff were also threatened with dire consequences. We were finding very difficult to give instructions with regard to the safety. Again I collected the reports and went to the General Manager and informed the situation. The General Manager informed me that all the senior officers are busy at Ramagundam because of L. K. Das death, and it is not possible to take decision with regard to the security of the officers. As the management is not taking any action with regard to the security of the officers, we have decided to apply for one day casual leave to protect ourselves. On 16-7-1987 I informed the General Manager that we applied casual leave. At 6 A.M. in the morning on 16-7-1987 the General Manager informed me that the leave will not be granted. Since I am incharge of the mine I was asked to give instructions to the Mine to carry out the work, and also with regard to the safety. On 16-7-1987 in the morning when I went to the Mine I did not find any under manager on the spot. Then I called the Overmen to come to my room and they refused to come to my room. Then I went to Overman's room which is situated in the Mine, and I explained the position intimating that all the officers are going on leave and asked to take charge of the Mine. The senior most superior in the Mine K. Rajaiah refused to take charge of the Mine. After he refused to take charge I started asking one by one Overman and nobody was ready to take charge of the mine. When I was requesting the Overman to take charge and explain the position, workmen who were watching from a distance came and gheraoed all of us. In the meanwhile my peon came and informed me that the Asstt. Manager by name Vidyapathi came to office, and then I went to the Vidyapathi and informed me that I am not in a position to convince the Overmen and asked him to convince the Overmen for normal production. Vidyapathi also tried to convince the Overmen but he failed. Then the situation was becoming tense, so I thought of informing the General Manager. So I instructed Vidyapathi at least to appoint one Overman to comply with the statutory obligation under the Mines Act. Then I went to the G.M's Office at 10 A.M. I came to know Vidyapathi appointed one Narayanaraju Overman to look after the mines safety statutorily and lockout was declared. There was no prosecution notice against us for the arrangements made under the Mines Act by me for 16-7-1987. The Coal cutters, Coal Fillers, General Mazdoors who were working in the Mine had no sympathy towards the officers or with regard to the incident of L. K. Das. But they were against us. Infact we never expected any sympathy but we have also not expected tense situation. But these workmen created tense situation. The lockout was lifted on

17-7-1987. The Officers who have applied for leave, the leave was not sanctioned, no wages were paid to them, for workers also the wages were not paid because lockout was declared." In his cross examination M.W2 admits that the same tension was prevailing in Bellanipalli Region also. He further stated that all the officers went on mass casual leave on 16-7-1987 and that the leave was not granted to them and increment date was postponed by one day. He has earlier stated that L. K. Das had received incised injuries due to brutal attacks on him on 13-7-1987 and he succumbed to the injuries on 15-7-1987.

13. It is not disputed that all the officers who are working in those areas were under constant intimidation, threat and pressure because of extremist activities. Thus extremist activities were also within the mines as there were some militant workmen. There were kidnappings, assaults and negotiations at gunpoint of the executives. It is also not disputed that Godavarikhani and Bellampalli Region have been declared as disturbed areas and there was no security and safety of the officers working in the mines in those areas and the officers used to get threats and they were being attacked. The murder of L. K. Das might have caused panic in the minds of all the officers and on account of it they applied for mass casual leave on 16-7-1987 apprehending danger to their lives. The officers working in the mines in Kothagudem and Bellampalli Regions abstained from work by applying mass casual leave on 16-7-1987. It appears to be a spontaneous act on their part in view of the brutal attack causing death of L. K. Das on the previous night. In the absence of the officers who are statutory authorities under the Mines Regulations, the Management cannot undertake mining operations and therefore the Management is justified in declaring lockout on 16-7-1987 due to the absence of the statutory officers. In this context the decision of the Supreme Court in **KAIRBETTA ESTATE, KOTAGIRI v. RAJAMANICKAM AND OTHERS** 1960 (11) LLJ page 275 (Supreme Court) is relevant. The facts in that case are similar to the facts in this case. In that case the Manager of Kairbetta Estate was assaulted on 26-7-1957 by some of the workmen and he suffered six fractures and had to be in hospital in Coonoor and Madras for over a month. The staff was also threatened by the workmen. As a result of those threats Kelso Division was closed until further notice. Under those circumstances, their Lordships of Supreme Court held that the declaration of lockout was fully justified. In the instance case also Sri L. K. Das Deputy Chief Mining Engineer was brutally attacked and he sustained incised injuries over his body and he succumbed to the said injuries on 15-7-1987. On account of such brutal attack the officers and executives went on mass casual leave and consequently the Respondent-Management declared lockout. The declaration of the lockout by the management under those circumstances in my opinion is justified.

14. The learned representative for the Petitioner Union submits that the Respondent Management ought to have made alternative arrangement for

running the mining operations in the absence of the officers and that under Regulation 31 of the Coal Mines Regulations, 1957, a coal mine manager can authorise in writing a person whom he considers competent to act as Manager of the Mine in his absence and that in the instant case, the Respondent Management failed to make alternative arrangement in the absence of all the officers for running the mines. The learned counsel for the Respondent-Management submits that steps were taken to authorise the Overmen to run the mining operations in the absence of officers, but they refused to operate the mines. M. W1 who is working as Deputy Personnel Manager in the Respondent Company deposed on this aspect thus : "The Colliery Managers who are in charge of running the mines looking after the safety and protection of installation safe custody of mines and explosives materials authorised the Overmen who were competent to act as Managers under the Coal Mines Regulations and Mines Act. They refused to accept the authorisation given by the Managers to hold the post of Mine-Manager. On persuasion they accepted the statutory functions i.e. routine inspections of the roof, ventilation, bailing of water and supervise the essential staff engaged in the mine. Under the circumstances the Management decided to declare lockout apprehending danger to the peace, installations, equipment, mine explosives etc. .... It is violation to run Mine and engage any workman underground without complying with Coal Mines Regulations. If the Mine is run without competent personnel, the manager is liable for criminal prosecution by the Directorate of Mines Safety. For this reason and to protect the lives of workmen, lockout was declared in all the mines of Ramagundam Area on 14-7-1987. Mr. L. K. Das died on 15-7-1987 afternoon and all the areas in Singareni Collieries except Ramagundam threat has been thrown to the officers and there also the situation became panic. Under the apprehension that the unsocial elements scattered to all areas, Bellampalli, Mandamarri, Ramakrishnapur, Srirampur, Kothagudem Yellandu Manuguru and there also similar situation has arisen and Overman refused to accept the responsibility entrusted to them for the working of the mine. However on persuasion they accepted to carry out the statutory functions of the Manager limited to the inspection of Mine. .... The lockout was declared not to deprive any wages to the workmen and only to maintain peace, protect the mine and installations and also it is a crime to run the mine without statutory personnel, it is declared to avoid criminal prosecution. "In his cross examination also M.W1 stated thus". It is true that the Coal Mines Regulations permit the Overman to act as managers in the absence of the officers. In the present case under tense situation prevailing in the areas and also provoked by the Trade Unions, Overmen refused to hold the responsibility for production and safety of the workmen. On constant persuasion the Overmen agreed to carry out the statutory functions only to the extent of Mines inspections. The Managers while applying for means casual leave orally asked the overmen to take charge as managers of the mines Overmen to take charge as managers of the mines Overmen to show that Overmen refused to take charge as Managers. Witness volunteers. We sent information to the Director General of

Safety about the authorisation given to the Overmen to act as Managers of the Mine. We have filed copy of that letter addressed to Director General of Safety into Court. Ex. M11 is the said letter. I have not taken in writing about the refusal of the Overman to act as Managers and to hold responsibility for production by engaging workmen underground. The reason for not obtaining their refusal in writing when the situation was so tense and the circumstance compelled the management not to provoke them. Notice of lockout in the prescribed form was sent to the Regional Labour Commissioner and Labour Commissioner "M. W2 who was working as Superintendent of Mines in Somagundam I Incline. During the year 1987 deposed on this aspect thus : "On 16-7-1987 in the Morning when I went to the Mine. I have not found any Under Manager on the spot. Then I called the Overman to come to my room and they refused to come to my room then I went to Overmen's room which is situated in the Mine. and I explained the position intimating that all the officers are going on leave and asked to take charge of the Mine. The Senior most Supervisory in the Mine K. Rajalah refused to take charge of the Mine. After he refused to take charge I started asking one by one all overmen and nobody was ready to take charge of the mine." In his cross examination also M.W2 stated thus "I know that as per the Overman Regulations 1957 if the Managers are not able to attend to the duties they can authorise Overman to officiate as Manager to run the mine. On 16-7-1987 I went to Overman's room and authorised them to act as Manager but they refused to do so. I informed only to the General Manager about the refusal of the Overmen to act as Mine Manager."

15. Exs. M1 to M34 are the xerox copies of the letters addressed to the Director General of Mines (Safety) Dhanbad information about the authorisation given to Overman to officiate as Mine Manager in the absence of Colliery Managers and also regarding lockout notice issued to various Mines in Bellampalli and Kothagudem Regions and also notice regarding letters relating to the lifting of lockout on 17-7-1987. The oral testimony of M.W1 and M.W2 and the documents Exs. M1 to M34 amply prove that the Respondent-Management made attempts to authorise the Overmen holding Overman Certificate of Competency to act as Managers of the Mines and the Lockout notices were also intimated to the concerned Governmental agencies. Hence there is no substance in the contention of the learned representative for the Petitioner that no attempts were made to run the mining operations making alternative arrangements in the absence of the officers of the Mines. The Respondent-Management declared lockout only when the authorised Overmen refused to act as Mine Managers. As per the Mining Regulations, the mining operations could not be entertained in the absence of the Statutory staff. In the instance case, in the absence of the Colliery Managers and other officers when they went on mass casual leave on 16-7-1987 the Supervisory staff i.e. the Overmen were authorised to take up the responsibility of running the mining operations and they refused to do so. Under

those circumstances. I have no hesitation to conclude, that the Respondent Management was constrained to declare lockout. Therefore there was every justification for declaring lockout under those circumstances.

16. In the light of my above discussion, I hold on Point (1) that declaration of lockout on 16-7-1987 is just legal and that the Management is justified in declaring lockout in view of the mass casual leave submitted by the statutory staff on account of the panic created due to the murder of L. K. Das, Deputy Chief Mining Engineer on the previous day. The Management had no alternative but to declare lockout due to the absence of the statutory staff and as supervisory staff failed to undertake the responsibility of running the mining operations. In the absence of Colliery Manager and for safety of the Mines and personnel. The point is thus decided in favour of the Respondent Management.

17. Point(2).—The learned counsel for the Management submits that as the Management is justified in declaring lockout in view of the prevailing conditions of law and order situation and security, the affected workmen are not entitled for wages for the lockout period. Admittedly the Management declared lockout on account of the strike by the officers of the Respondent-Management. There is nothing on record to show that the lockout was declared due to any precipitating act on the part of the workmen. It is in the evidence of M.W1 that on 13-7-1987 at 8.30 P.M. L. K. Das, Deputy Chief Mining Engineer was brutally attacked by some unknown persons in his quarters while returning from office. It is not a case of the Management that L. K. Das was attacked by any of the workman of the Respondent-Management. There is also no averment in the counter filed on behalf of the Management that the workmen of the Respondent-Company were behind the attack on L. K. Das. Therefore, there is nothing on record to show that the Management had declared lockout as a consequence of an act on the part of the workmen. Admittedly, the lockout was declared as statutory staff and other officers went on mass casual leave on account of the panic created due to brutal attack and consequent death of L. K. Das and declaration of lockout was done spontaneously. Further it is in the evidence of M.W1 that no disciplinary action was taken against the officers who went on casual leave suddenly jeopardising the mining operations, except postponing the date of increments by one day and non-payment of salary for the said period. Ex. M35 is the true copy of the proceedings of the Respondent-Company dated 14-8-1987 for taking action against the concerned officers who went on mass casual leave. As seen from this document the Management decided that the leave applied for should not be granted and the same may be treated as absence and the annual increment date of those officers will be shifted by one day. As the declaration of the lockout by the Management was not due to any action on the part of the workmen, there is no justification for withholding the wages of the workmen for the lockout period. Considering the circumstances in this case, I am of the opinion that it will meet the ends of justice if the Respondent Management is directed to pay the wages

to the workmen for the lockout period on 16-7-1987. Therefore, I hold on this point that the Petitioner-workmen are entitled for the wages for the lockout period on 16-7-1987.

18. Point (3).—This point relates to the relief to be granted to the petitioner-workmen. In view of my findings on Points (1) and (2) the workmen of the petitioner Union who were affected by declaration of lockout are entitled for the wages for the lockout period i.e. 16-7-1987.

19. In the result, Award is passed stating that the lockout declared by the Respondent-Management on 16-7-1987 as a sequel to the mass casual leave by the officers is just and legal and that the workmen affected by such lockout are entitled for their wages for the said lockout period. In the circumstances of this case, the parties are directed to bear their costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 14th day of February, 1996.

A. HANUMANTHU, Industrial Tribunal-I

#### Appendix of Evidence :

Witnesses Examined for  
the Petitioner :

W.W1 M. Narayana

Witnesses Examined for  
the Respondent :

M.W1 Sri P. A. V. V. Sarma

M.W2 K. G. Sridhar

Documents marked for the Petitioner/Workman :

NIL

Documents marked for the Respondent/Management

Ex.M-1 16-7-87.—Notice of authorisation issued by the Colliery Manager to Mr. E. Narayana Raju.

Ex. M2 16-7-87.—Form N notice of lockout.

Ex.M3 16-7-87.—Notice of lockout at Somagudem 1A.

Ex.M4 16-7-87.—Notice of lockout at Somagudem 1 and 1A.

Ex.M5 17-7-87.—Notice of lockout Form N sent by the Colliery Manager.

Ex.M6 16-7-87.—Notice of authorisation to Head Overman by the Colliery Manager Somagudem-III.

Ex.M7 16-7-87.—Notice of lockout by the Colliery Manager-K.K.I.

Ex.M8 16-7-87.—Notice of the intimation of lockout dt. 16-7-87 by K.K.II.

Ex.M9 17-7-87.—Form C termination of lockout of K.K. 2.

Ex.M10 16-7-87.—Notice of lockout issued by Agent K.K.II.

Ex. M11 16-7-87.—Notice issued with regard to K.K. 5 Incline.

Ex.M12 16-7-87.—Notice dt. 16-7-87 issued by Superintendent of Mines, K.K.5 A.

Ex.M13 17-7-87.—Notice of termination of lockout issued by K.K.2 Group of Mines.

Ex.M14 17-7-87.—Notice of lockout by K.K.5-A Incline.

Ex.M15 16-7-87.—Xerox copy of the letter addressed to Director of General Mines Safety informing about authorisation to Sri K. Balajiah, Head Overman.

Ex.M16 16-7-87.—Xerox copy of Letter dated 16-7-87 addressed to V. Srinivasa Rao, Headoverman to act as Manager of R.K.1 A Incline.

Ex.M17 to M24.—Xerox copies of the authorisation letters given to the overman to act as Manager.

Ex.M25 15-7-87.—Xerox copy of the lockout notice dated 15-7-87 at R.K. 5.

Ex.M-26 15-7-87.—Xerox copy of the Form N lockout notice dated 15-7-87.

Ex.M27.—Xerox Copy of the Form N lockout notice dated 16-7-87 by Genl. Manager, Bellampalli Division.

Ex.M28 20-7-87.—Xerox copy of the Telegram Copy dt. 20-7-87.

Ex.M29 16-7-87.—Xerox copy of the notice dt. 16-7-87 of MVK 2 Incline.

Ex.M30 16-7-87.—Xerox Copy of the notice of lockout dt. 16-7-87 of MVK 3 Incline.

Ex.M31 16-7-87.—Xerox copy of the lockout notice of MVK 5 Incline.

Ex.M32 16-7-87.—Copy of the notice at Goleti Open Cast Mine.

Ex.M33 14-7-87.—Xerox copy of the notice of lockout dt. 14-7-87 due to strike by Electricians.

Ex.M34 14-7-87.—Xerox copy of the Form N Notice of strike dt. 14-7-87 in GDK 2 Incline.

Ex.M35 (By consent)/18-87.—True Copy of letter of the Director Personal reg. Mass Casual Leave applied on 14th, 15th, 16th, 17th July, 1987 by Officers.

नई दिल्ली, 5 जून, 1996

का.आ. 1921 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 3-6-96 को प्राप्त हुआ था।

[सं. एल-22012/273/95-आई आर (सी-II)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1921.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of FCI and their workmen, which was received by the Central Government on the 3-6-96.

[No. L-22012/273/95-IR (C II)]  
RAJA LAL, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 12 of 1996

In the matter of dispute between :

Rajya Sachiv,  
Bhartiya Khadya Nigam Karamchhari Sangh,  
5-6, Habibullah State,  
Hazratganj,  
Lucknow.

AND

Senior Regional Manager,  
Food Corporation of India,  
5-6, Habibullah State,  
Hazratganj,  
Lucknow-226001.

## AWARD

1: Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-22012(273)/95-I.R.(C. II) dt. 30-1-96, has referred the following dispute for adjudication to this Tribunal—

Whether the reversion order issued by the Management of Food Corporation of  
1475 GI/96 --10

India, New Delhi vide letter No. 2/43/87/E-II/ND dated 18-4-88 of Sh. J. K. Jain AG. III(D) alongwith others is legal and justified? If not, what relief the concerned workman is entitled?

2. In spite of repeated opportunities, having been given to the concerned workman, he neither filed any claim statement nor put in appearance in the Tribunal. It appears that he is not interested in the case.

3. Hence my answer to the reference is in the affirmative and against the concerned workman for want of proof. He is not entitled to any relief.

4: Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ. 1922 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद को पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 30-5-96 को प्राप्त हुआ था।

[सं. एल-22012/78/95-आई आर (सी-II)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1922.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on the 30-5-1996.

[No. L-22012/78/95-IR (C. II)]

RAJA LAL, Desk Officer

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I AT HYDERABAD

PRESENT :

Sri A. Hanumanthu, M.A., LL.B.,  
Industrial Tribunal-I,  
Dated : 25th day of March, 1996  
Industrial Dispute No. 77 of 1995

## BETWEEN

The President,  
Telangana Coal Mines Labour Union,  
Bellampalli,  
Adilabad District. . . . . Petitioner

## AND

The General Manager,  
S.C. Co., Ltd.,  
Kalyana Khani (PO),  
Dist. Adilabad. . . . . Respondent

## APPEARANCES :

None for the the Petitioner—Union.  
Sri K. Srinivasa Murty, Advocate for the  
Respondent.

## AWARD

This is a reference made by the Government of India, Ministry of Labour, New Delhi by its Order No. L-22012/78/95-IR(C. II), dt. 22-9-95 under Sections 10(1)(d) & 2A of the Industrial Disputes Act, 1947 for adjudication of Industrial Dispute in the schedule annexed to it which reads as follows :

“Whether the action of the Management in ignoring Shri T. Dharmiah, Senior most trammer at CMG-1 INC and promoting K. Komaraiah trammer SMG-I INC to post of tramming supplying muccadam is legal and justified ?

If not what relief workman is entitled to ?”

The said reference has been taken on file as I.D. No. 77 of 1995.

2. After receipt of notices issued by this Tribunal to both the parties, neither the petitioner union nor the concerned workman did appear before this Tribunal when the case was called on bench from time to time. But the management is represented by its advocate. After serving the notice held sufficiently on the petitioner, this Tribunal set the petitioner ex-parte on 23-2-1996. The matter then was posted for filing the counter of the respondent to 25-3-1996.

3. On 25-3-1996 the advocate for the respondent submitted that the respondent has no counter as the petitioner remained ex-parte in the matter. Hence there are no triable issues in this dispute, and also the petitioner-union has no interest in prosecution the matter.

Under these circumstances, there is no option for this Tribunal except to close the reference as the petitioner-Union and the concerned workman

have no interest to prosecute this matter. Hence this reference is closed.

Typed to my dictation and given under my hand and the seal of this Tribunal this the 25th day of March, 1996.

A. HANUMANTHU, Industrial Tribunal-I  
Appendix of Evidence :  
NIL

नई दिल्ली, 5 जून, 1996

का.आ 1923 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-96 को प्राप्त हुआ था ।

[एल-42012/138/86-डी-II (बी) आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1923.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 30-5-1996.

[No. L-42012/138/86-D-II(B)/IR(C-ID)]  
RAJA LAL Desk Officer

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-I  
AT HYDERABAD.

## PRESENT :

Sri A. Hanumanthu, M.A.,LL.B.,  
Industrial Tribunal-I.

Dated : 18th April, 1996.

INDUSTRIAL DISPUTE NO. 72 OF 1994.

## BETWEEN :

Sri D. Mohammed Ghouse,  
12/310, Satyanarayana Peta,  
Guntakal, A.P., 51-5801.

PETITIONER.

## AND

District Manager,  
F.C.I. Kurnool.

RESPONDENT

## APPEARANCES :

Sri G. Vidya Sagar and G. Ravi Mohan, Ad-  
vocates for the Petitioner.  
Sri B.G. Ravindra Reddy, Advocate for the  
Respondent.

**AWARD :**

This is a reference made by the Government of India, Ministry of Labour, New Delhi by its Order No. L-42012/138/86-DIII/B(P.T.) IR-C.II dated 15-9-94 under Section 10(d) and (2)(A) of the Industrial Dispute Act, 1947 for adjudication of Industrial Dispute mentioned in its schedule which reads as follows :—

“Whether the action of the management of Food Corporation of India, Kurnool in terminating their Workman Sri D. Mohammed Ghouse, Watchman is justified? If not to what relief is the workman entitled to?

The said reference has been taken on file as I.D. No. 72/94.

2. After receipt of the notices issued by this Tribunal both parties have put in their appearance through their counsel. On 30-1-1995 Claim Statement was filed by the Petitioner. On 4-5-1995 the Counter was filed by the Respondent. Then the matter has been posted for enquiry from time to time.

3. On 25-11-1995 the petitioner examined W.W1 and Exs. W1 to W10 were marked. He reported that he has no further evidence on his behalf. The matter was posted to Respondent's evidence from time to time. The Respondent filed an I.A. 7/96 to permit him to cross examine W.W1 and the same was allowed on 27-1-1996. But W.W1 was not present for Cross Examination from 23-2-96 onwards. On 9-4-96 W.W1 as well as his counsel were called absent and no representation was made on their behalf. The Respondent reported to cross examine W.W1. Hence on payment of costs of Rs. 50 to the Respondent by the petitioner the matter was adjourned to 18-4-1996 for cross examination of W.W1. Again on 18-4-96 when the matter was called on bench, neither the petitioner nor he counsel nor W.W1 was present. But the respondent reported ready to cross examine W.W1. As the petitioner is not taking any interest in the matter to get on with the enquiry. The reference is ordered to be closed for default.

4. Since the petitioner and his counsel are not evincing any interest to prosecute the matter in this case there is no option except to close the reference. The reference is closed for default.

5. In the result the Award is passed and the reference is closed for default, the petitioner is not entitled any relief in this case.

Typed to my dictation and given under my hand and the seal of this Tribunal, this the 18th day of April, 1996.

A. HANUMANTHU, Industrial Tribunal-I

**Appendix of Evidence**

Witnesses Examined on behalf of the Petitioner :

Witnesses Examined on behalf of the Respondent :

W.W1 P. Mohammed Ghouse. NIL  
Documents marked for the Petitioner :

Ex. W1 Certificate dated 26-11-76 issued by Asstt. Manager F.C.I. Ananthapur.

Ex. W2 Certificate dated 4-6-77 issued by Asst. Manager, F.C.I. Thimmencharla.

Ex. W3 Appointment order dated NIL issued by the District Manager, F.C.I. Kurnool.

Ex. W4 Termination Order dated 11-10-76 issued by the District Manager, F.C.I., Kurnool.

Ex. W5 Another termination order dated 12-1-77 issued by the District Manager, F.C.I. Kurnool.

Ex. W6 Appointment Order dated 15-1-77 issued by the District Manager, F.C.I., Kurnool.

Ex. W7 Termination order dated Nil issued by the District Manager, F.C.I., Kurnool.

Ex. W8 Termination Order dated 27-4-77.

Ex. W9 Appointment Order dated 14-7-76.

Ex. 10 Order dated 24-3-94 in W.P. No. 17029/87 on the file of Hon'ble High Court of A.P.,

Documents marked for the Respondent :  
NIL

नई दिल्ली 5 जून, 1996

का.आ 1924:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार विशाखापटनम पोर्ट ट्रस्ट के प्रबन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापटनम के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या एल-34011/4/91-आई आर (विधि)]  
पी.जे. माईकल, डैस्क अधिकारी

New Delhi, the 5th June, 1996

Advance? If not to what relief the workman are entitled?"

S.O. 1924.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Visakhapatnam as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Visakhapatnam Port Trust and their workman, which was received by the Central Government on the 31-5-1996.

[No. L-34011/4/91-IR(Misc.)]

P. J. MICHAEL, Desk Officer

### ANNEXURE

### IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, VISAKHAPATNAM

#### PRESENT :

Smt. G. Jaishree, B.Sc., LL.M.,

Chairman & Presiding Officer.

Tuesday, the 21st day of May, 1996

I.T.I.D. No. 21/92(C)

#### BETWEEN

General Secretary,  
Port & Dock Employees Association,  
14-25-32A, Rama Padma Nilayam,  
Dandu Bazar,  
Maharamipeta,  
Visakhapatnam-530002. . . Workman

#### AND

The Chairman,  
Visakhapatnam Port Trust,  
Visakhapatnam. . . Management

This dispute coming on for final hearing before me in the presence of the petitioner in person and the management in person, upon hearing the arguments of both sides the court passed the following :

#### AWARD

(1) In this case, the Government of India referred the dispute existing between the management of Visakhapatnam Port Trust and their workmen under Section 10(1)(d) of Industrial Disputes Act in the following terms.

"Whether the action of the management of Visakhapatnam Port Trust is justified in effecting total recovery of salaries of Sanitary Khalasis towards Motor Cycle

(2) In the claim statement filed by the workmen it is stated that the management of Visakhapatnam Port Trust granted Motor Cycle advance to the Sanitary Khalasis working in Medical Department and paid an amount of Rs. 12,000 or the actual cost of the vehicle whichever is less as per their eligibility. After drawing the motor cycle advance, the Sanitary Khalasis utilised the same for domestic purpose due to compelling circumstances and theft occurred for some of the employees. Since the workmen failed to purchase the motor cycles and produced the relevant documents, the management initiated disciplinary action and charge sheets were issued under Regulation No. 10 of the Visakhapatnam Port Employees (Classification, Control, & Appeal) Regulations, 1976. Apart from the disciplinary action, the management also started recovering the total amount of salary from the workmen towards motor cycle advance which resulted in payment of Rs. 5 and Rs. 10 as salary to the workmen every month which is illegal. It is further stated that the issue of credit authorisation slips to these workmen was also stopped and thereby they were denied of drawal of rice and other commodities from the authorised shops on credit basis. The payment of Productivity Linked Bonus, which was paid to all Class III and IV workers in Port was also stopped to these workmen. Thus, it is stated that the action of the management in recovering the entire salary of the workmen is arbitrary and illegal. It is stated that this amounts to punish the workmen before the proceedings under Reg. 10 are completed and before the guilt of the workman is proved. It is pleaded that as per the rules and as per the Payment of Wages Act also the employees should be paid minimum of 1/4th salary deduction all the recoveries. Recovery of total salary and initiating disciplinary action is illegal and it is double punishment which cannot be imposed. Ultimately, it is prayed that the management may be directed to repay the amount recovered and issue directions or not recovering total amount on motor cycle advance granted, in future and also to recover usual amounts as per rules.

(3) In the counter, this petition is opposed stating that motor cycle advance was granted to certain Khalasis of Medical Department with a view to enable them to purchase their own conveyance and use the same for official duties as they have to come from long distances. But some Khalasis misused this facility by drawing the amounts and not purchasing the vehicles. The first action taken is to recover the advance to the maximum extent from the salary besides taking disciplinary action against them as per rules. As the credit facility depended upon the extent of salary they get, the same was stopped as they were not getting sufficient salary for the same. It is pleaded

that the Payment of Wages Act is not applicable to the said Khalasis as they are drawing more than Rs. 1600 (Sixteen hundred only) per month. About the stopping of bonus, it is stated that it was decided later to pay about Rs. 1000 to these employees and to adjust the balance amount against the MCA advance. It is stated that misuse of motor cycle advance is a misconduct and therefore disciplinary action is taken besides ordering lumpsum recovery of the advance drawn by them. It is pleaded that there is no violation of any procedure and the recovery of advance from the salaries of the employees is not illegal and the same need not be stopped till the disciplinary proceedings are concluded. It is also stated that in some departments of the Port Trust, there is a practice of payment of 20 per cent of the salary to the employees after making recovery towards loans etc. and the matter was reviewed in this case by the management and a decision was taken to effect the MCA recovery from the employees of Medical Department including the Sanitary Khalasis, who misused the MCA only to the extent that they will receive one forth of their salary as net payment as is being done in Marine and Mechanical Department of the Port Trust. It is stated that the action of the management does not amount to double punishment as alleged. Ultimately, it is pleaded that the petition may be rejected.

4. No oral evidence is adduced by the workmen but he got marked Ex. M1. No oral or documentary which is adduced by the management. Heard arguments of both sides.

5. The points that arise for consideration are :

(2) Whether the action of the management in recovering total salary of the workman towards motor cycle advance is justified ?

2. To what relief are the workmen entitled ?

6. Point No. 1.—The admitted facts of the case are that motor cycle advance is granted to some of the sanitary Khalasis in the Medical Department of Visakhapatnam Port Trust and they failed to purchase the motor cycle for which the advance is granted and produced the relevant documents in proof thereof. Consequently, the Visakhapatnam Port Trust management initiated disciplinary action against the employee as it amounted to misconduct under the conduct rules and simultaneously started recovering the said advance from the salaries of those workmen. It is stated by the workmen that the management resorted to the recovery of lumpsum amount for realisation of motor cycle advance to the maximum extent from the monthly salaries of the workmen and resulting in the workmen receiving Rs. 5 or Rs. 10

per month towards their salaries after deducting the recoveries. It is pleaded that this is not only illegal but also inhuman and unjust. For contending that it is illegal, it is pleaded that disciplinary action also is initiated against these workmen and recovery which is being made is a punishment which is imposed before the disciplinary proceedings are concluded. But I do not see any force in this contention. The management sought to take disciplinary action as misusing motor cycle advance is a misconduct under the conduct rules. The management may impose any punishment as per rules if the misconduct is proved. It has no relation with the recovery of the motor cycle advance, as the management has right to recover the same if the employee does not utilise the advance for the purpose for which it is granted and fails to produce documents of purchase within time. It may be noted here that this advance is recoverable in easy instalments from the salaries of the employees as per rules if it was properly utilised. If it is misused the management's right is not restricted to recover this advance in easy instalments in the same manner where it is utilised properly. The right of the management to recover it from the salary each month to the maximum extent possible, cannot be questioned by the workmen as the management is at liberty to recover the same in any manner as the interest of the management in such a case would be to recover the misused amount as early as possible from the workmen. Thus, I do not find any illegality in the action of the management in seeking to recover the misused motor cycle advance to the maximum extent possible from the salaries of the workmen.

7. It is next contended by the workmen that atleast on humanitarian grounds, the management may be restrained from collecting the motor cycle advance from the entire salaries of the workmen. I find this plea of the workmen justified. If the entire salary is deducted nothing would be left for their sustenance which affects their morale and capacity and enthusiasm to work. The workmen cannot be expected to work efficiently while starving. Thus, on humanitarian considerations, the circumstances require the bare sustenance atleast to be left with the workmen after making the recoveries. In fact the workmen filed Ex. W1 dated 5-11-92 in which it is stated that the Chairman of the Port Trust accorded approval to effect the MCA recovery of the Medical Dept. Khalasis who misused the MCA only to the extent that they will receive 1/4th of their salary as is being done in Marine and Mechanical Departments. This is addressed to the Chief Medical Officer from the Manager, Personnel Department. In fact, the management also stated about this decision in their counter filed on 17-2-93 subsequent to the date of Ex. W1. Thus the decision taken by the management to effect recovery of MCA

from the salaries of the workmen who misused the same only in such a manner as to leave 1/4th of their salaries as net payment every month, is taken on humanitarian considerations and the same is just and proper and the workmen are not entitled to any further claim more than this. Accordingly, I find the action of the management in paying net amount of 1/4th salary and deducting the rest of the salary towards recoveries including MCA recovery is justified. This point is answered accordingly.

8. Point No. 2.—In view of my findings on point No. 1 above, I hold that the workmen who misused the MCA are entitled to be paid 1/4th of their salaries and the management is to be directed to recover the motor cycle advance only from the remaining 3/4th salary of such workmen. The recoveries already made shall not be repaid to the workmen by the management and the direction to recover leaving 1/4th salary shall apply in making future recoveries only.

9. In the result, the reference is answered and award is passed declaring that the action of the management of Visakhapatnam Port Trust is not justified in effecting total recovery of salaries of Sanitary Khalasis towards motor cycle advance and such Khalasis are entitled to be paid 1/4th of their salaries while recovering amount of motor cycle advance in future from the salaries of such Khalasis. The amounts already recovered from their salaries in each month shall not be repaid to such workmen.

Dictated to steno transcribed by her gives under my hand and seal of the court this the 21st day of May, 1996.

G. JAISHREE, Chairman & Presiding Officer  
APPENDIX OF EVIDENCE IN I.T.I.D. No.  
21/92 (C)

#### WITNESSES EXAMINE

For Management.—None.

For workman.—None.

#### DOCUMENTS MARKED

For Workman :

Ex. W1 : 5-11-92.—Proceedings No. F3/  
P&DEA-3587/ACC/91 dtd. 5-11-92.

For Management.—Nil.

नई दिल्ली, 5 जून, 1996

का.आ. 1925 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स डी.बी.सी. एन्ड सन्स (प्रा.) लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण, नं. 1, बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 28-5-96 को प्राप्त हुआ था।

[संख्या एल-31011/21/91-आई आर. (विधि)]  
पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1925.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1987), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. DBC & Sons (P) Ltd. and their workman, which was received by the Central Government on the 28-5-96.

[No. L-31011/21/91-IR(Misc)]

P. J. MICHAEL, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

#### PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/30 of 1992

#### PARTIES :

Employers in relation to the management of  
M/s. DBC & Sons (P) Ltd.

#### AND

#### THEIR WORKMEN

#### APPEARANCES :

For the Management—Shri S. S. Sayyed, Advocate.

For the Workmen—Shri P. K. Sharma and  
Shri R. R. Upadhyaya, Advocate, Shri M.  
B. Anchan, Advocate for individual workman.

Industry : Ports, & Docks State : Maharashtra  
Mumbai, dated the 17th day of May, 1996

#### AWARD

Shri P. K. Sharma for union alongwith Shri R. R. Upadhyaya, Advocate, Shri M. B. Anchan, Advocate for individual workman. Shri S. S. Sayyed, Advocate for management.

Shri P. K. Sharma has stated that the union is no longer interested in espousing the dispute and withdraws its claim. Shri S. S. Sayyed has no objection.

However Shri M. B. Anchan for workmen contends that he may be allowed to prosecute the claim. This is opposed by the union as also by management.

I have heard the parties.

The appropriate Government referred the dispute to this Tribunal in the following terms :

"Whether the Notice of the Bombay Transport & Dock Workers Union, Bombay as per Annexure-I, on the Management of Messrs. DBC & Sons Pvt. Ltd. Bombay demanding absorption/permanency in the Company is justified? "If so, to what relief the workmen are entitled to?"

A bare reading of the reference to show that it does not refer any individual dispute of any particular workman. When it is so and the union espousing the case in its wisdom withdraws the claim, the individual workmen are not entitled to prosecute the claim and same cannot be adjudicated upon when the union withdraws the same. The workmen are at liberty to pursue their legal remedy before the appropriate forum.

These does not survive any dispute between the union and the management and no dispute award is made. In the circumstances of the case parties are left to bear their own costs.

R. S. VERMA, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ. 1926.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल. के प्रबंधन के संबंध नियोजकों और उनके कामकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-6-96 को प्राप्त हुआ था।

[स. एल-19012/164/86-डी-4 (बी)]  
राजा लाल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1926.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of E.C. Ltd. and their workmen, which was received by the Central Government on the 30-6-96.

[No. L-19012/164/86-D.IV(B)]

N RAJA LAL, Desk Officer

## ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 77 of 1988

#### PARTIES:

Employers in relation to the management of Parbelia Colliery of M/s. E.C. Ltd.

AND

Their workmen

#### PRESENT:

Mr. Justice K. C. Jagadeb Roy . Presiding Officer

#### APPEARANCES:

On behalf of Management—Mr. P. Banerjee, Advocate.

On behalf of Workmen—None.

STATE : West Bengal.

INDUSTRY : Coal.

#### AWARD

By Order No. L-19012(164)/86-D.IV(B) dated 9th June, 1987 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Management of Parbelia Colliery of M/s. E.C. Ltd. in employing the following workmen on piece-rated jobs on their transfer from Adjai-II-(N) Colliery where they were employed as timerated workmen on miscellaneous jobs and thereby cause reduction of their earnings during the period January, 1985 to June, 1985 was justified?"

S/Sri

1. Keshar Barhi
2. Uttam Thakur
3. Chaman Thakur
4. Karim Mia
5. Tejmul Seikh
6. Jgagnu Rabidas
7. Basant Bari
8. Kalicharan Harijan
9. Subanandan Harijan
10. Bal Karen Bhar
11. Fagu Shaw
12. Sahadev Nunia
13. Kumruddin Mia

2. Though it is a case of the year 1988, the workmen have failed to lead their evidence in the case.

3. It has been decided in Reference Case No. 17 of 1992 after considering the several judgements of the Hon'ble Supreme Court as well as different High

Court that it is the duty of the workmen to lead their evidence first in support of their case, after which the management may lead evidence to justify their action. In the present case as already stated, the workmen have not led any evidence whatsoever in support of their contention in the written statement.

4. Since no case can be decided without any evidence and I do not have any material before me to suggest that the workmen were unduly prevented to present their case before the Tribunal, I come to the irresistible conclusion that the workmen have given up their case. I, accordingly pass a "No Dispute" Award in this case and dispose of the reference.

Dated, Calcutta,

The 10th May, 1996

K. C. JAGADEB ROY, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ. 1927 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार एस सी सी एल. के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-5-96 को प्राप्त हुआ था।

[सं. एन-22012/260/93-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1927.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C.C. Ltd. and their workmen, which was received by the Central Government on the 30-6-96.

[No. L-22012/260/93 IRC-II]

RAJA' LAL, Desk Officer

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL-I HYDERABAD

#### PRESENT :

Sri A. Hanumanthu, M.A., LL.B., Industrial Tribunal-I.

Dated the 4th day of April, 1996

INDUSTRIAL DISPUTE NO. 45 OF 1993

#### BETWEEN :

The Vice President, Singareni Miners & Engg. Workers Union (BMS) H. No. D-2156, Tilaknagar, Godavarikhani, 505 209 Distt. Karimnagar (A.P.) .. Petitioner

#### And

The General Manager, M/s. Singareni Collieries Company Limited, RG-III Godavarikhani, Distt. Karimnagar (AP) .. Respondent

#### APPEARANCES :

Sri A. K. Jayaprakash Rao & others, Advocates for the Petitioner.

M/s. K. Srinivasa Murthy & G. Sudha, Advocate for the Respondent.

#### AWARD

This is a reference made under Sections 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 (hereinafter called the Act) by the Government of India, Ministry of Labour, by its Order No. L-22012/260/93-IR (C. II), dated 7-12-1993 for adjudication of the Industrial Dispute mentioned in its schedule which reads as follows :

"Whether the action of the management of M/s. S.C.C. Ltd., RG-III Godavarikhani in denial to promote Shri Battu Sambaijah to Grade 'D' and 'B' on par with Sri Alwala Radha who is one year junior to him is legal and justified ? If not, to what relief the workman is entitled to ?"

The said reference has been taken on file by this Tribunal as Industrial Dispute No. 45 of 1993. In pursuance of the notices issued. The parties have put in their appearance and they are being defended by their counsel.

2. On behalf of the Petitioner, a claim statement has been filed to the following effect :—

The workman B. Sambaijah is a member of the Singareni Miners and Engineering Workers Union which has espoused his cause. The workman B. Sambaijah joined the service of the Respondent Company on 12-12-1976 as a Tradesman (Tin-Coppersmith). Thereafter, he was promoted to Category IV on 14-12-1977 and further promoted to Category V on 1-3-1987. The Respondent Company without assigning any reason, ignored the claim of the workman B. Sambaijah for promotion to Grade 'D' and 'B' on par with Alwala Radha who is junior to him as he was appointed in the year 1978. The said Radha was appointed as Tin-Coppersmith on 20-9-1978 in Cat. IV and thereafter he was promoted to Grade 'B' after completion of three years service. Whereas the workman B. Sambaijah was not promoted to Grade 'D' even though he was senior to Radha. The action of the Respondent is illegal, unjustified and it amounts to victimisation and unfair labour practice. The workman Sambaijah was illegally denied of his promotion to Grade 'D' and 'B' on par with Alwala Radha. Hence the petitioner prays to declare the action of the Respondent—Management in denying the promotion to Sambaijah to Grade 'D' and 'B' as illegal, unjustified and grant him the consequential benefit of promotion w.e.f. 1981 onwards on par with his junior Alwala Radha.

3. The Respondent-Management is resisting the claim of the Petitioner and filed a counter to the following effect :—Sambaiah cannot compare his case with A. Radha on the ground that the latter joined in 1978. The background and experience of both the candidates is not the same. E.P. Fitter 'D' job in the Respondent Company is a selection post and it is not based on automatic promotion. A. Radha worked in M.E.S. for 15 years and he had considerable experience. Therefore, he has been given promotion. Sambaiah is not having similar type of experience. Therefore, he cannot compare his case with that of Radha promoting an employee is a managerial function and whenever it is a selection promotion it is not given on seniority. The Management has to see the attributes and necessary requisite qualities before selecting a candidate for a selection promotion. An employee in lower cadre may be discharging duties perfectly to the satisfaction of the Management but he may not be in a position to take up higher responsibilities to which post he is likely to be promoted. On 1-9-1982 A. Radha was promoted to Group 'D' E. Fitter post. The workman Sambaiah was fully aware of it. If he is really aggrieved Sambaiah ought to have raised dispute at the relevant period itself. After lapse of 12 years Sambaiah is now raising the issue on the ground that he was senior which is not tenable in law. The claim of the workman Sambaiah is stale and not maintainable in law on the ground of laches on his part. Even on merits also, the workman has no case. Radha was also promoted from Group 'D' E.P. Fitter to Group 'C' on 26-7-1989 and he was confirmed in the said post and he was awaiting promotion to 'B' Grade. When Radha is eligible and ready for future promotion to Grade 'B', a candidate in Grade I has no right to compare with him and seek for jump for promotion to Grade 'B'. No discriminatory attitude was adopted by the Management against the workman Sambaiah. The workman Sambaiah was not arbitrarily deprived of any legal right. There are no merits in this case. Hence the reference is liable to be dismissed.

4. On behalf of the Petitioner, W.W1 is examined and Exs.W1 to W8 are marked. On behalf of the Respondent-Management M.W1 and M.W2 are examined and Exs.M1 to M3 are marked. The workman B. Sambaiah is examined as W.W1 and he deposed to the averments in the claim statement. Rama Krishna, Senior Personnel Officer working in the Respondent-Company is examined as M.W1 and the Deputy Chief Engineer K. Rama Krishna is examined as M.W2. M.W1 and M.W2 deposed to the averments in the counter. The details of the documents Exs.W1 to W8 and Exs.M1 to M3 are appended to this Award.

5. The points for consideration are :

- (1) Whether the denial of promotion of Sri Battu Sambaiah to Grade 'D' and Grade 'B' on par with Alwala Radha who is junior to him is justified and legal ?
- (2) To what relief the workman B. Sambaiah is entitled ?

6. Point (1).—The admitted facts as revealed from the evidence on record are as follows :—The workman Battu Sambaiah was appointed as an apprentice for training in Tin and Coppersmith w.e.f. 12-12-1976 for period of one year under Ex.W1 by the Respondent-Company. After completion of the apprenticeship period of one year, the workman Sambaiah also passed the written trade test conducted by the Respondent and by the office order dated 22-1-1978 (Ex.W3) he was appointed as Tin and Coppersmith on starting basic pay of Category IV and posted to work at Open Cast Project w.e.f. 14-12-1977. Under office order dated 8-3-1982 (Ex.W2) the workman Sambaiah was promoted to Category V w.e.f. 1-3-1981 and he was placed on probation for a period of three months. Under office order dated 31-10-1990 (Ex.W8) the workman Sambaiah was promoted as E. P. Fitter Grade III in the Excavation Cat. B w.e.f. 1-3-1990 and posted to work at Open Cast Project and he was placed on probation for a period of three months.

As seen from Ex.M2 Radha worked as temporary Tinsmith, in Orissa Construction Corporation Limited, Belimela Dam Site and he was attending to the work of repairing fitting and soldering of radiator, battery clamp making and fitting work as well. He applied for the post of Tin & Coppersmith in the Respondent Company in the year 1978 and the Additional Chief Engineer, Open Cast Project of the Respondent Company by his letter dated 21-9-1978 (Ex. M1) strongly recommended the candidature of the said Radha for recruitment as Tin and Coppersmith in Category IV, considering his previous past experience. The Respondent by its office order dated 20-10-1978 (Ex.W5) appointed Radha as Tinsmith to work in Open Cast Project in Ramagundam Category IV and he was placed on probation for a period of one year and he was directed to report for duty before the Additional Chief Engineer, Open Cast Project, Ramagundam on or before 5-11-1978. As seen from the office order dated 20-12-1978 (Ex.W4) Radha appeared before the Additional Chief Engineer, Open Cast Project on 30-11-1976 and he was subjected to medical examination and found him fit and he was directed to report to Deputy Engineer on 30-12-1978 for work and placement, and thus he continued to work as tin-coppersmith in Cat. IV wages. Sri D. Radha was placed in Cat. IV on 1-4-1982. But, as seen from Ex.M3, while Radha was working in Cat. V the Additional Chief Mechanical Engineer, RG-V put up a note dated 2-8-1982 to the General Manager recommending to consider the case of D. Radha for promotion to EP Grade 'B' as a special case in view of his previous experience in repairing the radiators of heavy equipment and in the absence of a post of Radiator Mechanic for Open Cast Workshop. The Deputy Chief Personal Manager also put up a note dated 31-8-1982 (Ex. M3) to place Radha in Category D in view of his previous experience and special skill and placed before the General Manager for approval. The General Manager by his Order dated 11-9-1982 (Ex. M3) accorded sanction for placement of Radha in Category D Fitter w.e.f. 1-9-1982 and designated him as E.P. Fitter for repairing radiators. Thus D. Radha was posted as E. P. Fitter Category 'D' w.e.f. 1-9-1982 under office

order dated 22-6-1989 (Ex.W9) D. A. Radha and four others were promoted as E. P. Fitter Grade II, Group C and posted to work at Open Cast Project, Ramagundam and they were placed in probation for a period of three months. Under Ex.W6 dated 25-10-1989 D. A. Radha and four others were confirmed as E. P. Fitter in Excavation Group 'C' w.e.f. 29-9-1989.

7. The learned counsel for the Petitioner submits that the workman D. Sambaiiah is senior to D. A. Radha as he was appointed earlier to Radha, that the workman Sambaiiah was appointed as Tin and Connersmith Category IV w.e.f. 14-12-1977 under Ex.W3 whereas Radha was appointed as Tin and Connersmith Category IV w.e.f. 20-12-1978 under Ex.W4 and W5, that the workman Sambaiiah was promoted to Category V w.e.f. 1-3-1981 under Ex.W2 whereas the workman Radha was promoted to Category V w.e.f. 1-4-1982, but the Respondent-Management arbitrarily and without assigning any reason posted Radha in E. P. Fitter Cat. D w.e.f. 1-9-1982 under Ex.M3 ignoring the seniority of the workman Sambaiiah and Sambaiiah was appointed as E.P. Fitter Grade III, w.e.f. 1-3-1990 under Ex.W8. The learned counsel for the Petitioner further submits that after ignoring the claim of Sambaiiah, Radha was promoted as E.P. Fitter Grade II, Group 'C' under Ex.W7 dated 22-6-1989 and that the orders passed by the Respondent-Management giving promotion to D.A. Radha ignoring the claim of seniority of the workman B. Sambaiiah who is senior to D. A. Radha are illegal and amount to unfair labour practice and the same may be set aside and that Sambaiiah also be given promotion on par with his junior D. A. Radha w.e.f. 1-9-1982. The learned counsel for the Respondent-Management submits that the post of E.P. Fitter Grade 'D' is a selection post and it will not be filled up by promotion merely on seniority and it will be filled up on taking the merits of the candidate into consideration and that D. A. Radha before he was appointed as Tin and Connersmith in the Respondent Company, had vast experience in the repairing of radiators etc. and considering his merit he was appointed as E.P. Fitter, Grade 'D' w.e.f. 1-9-1982 on the recommendation of the Additional Chief Mechanical Engineer. The learned counsel for the Respondent further submits that the workman Sambaiiah did not raise any objection immediately after the appointment of D. A. Radha as E.P. Fitter, Grade 'D' w.e.f. 1-9-1982 and he raised the dispute for the first time in the year 1993, after lapse of more than a decade and as such the claim of the workman Sambaiiah has become stale and he is not entitled for any relief under such a stale claim.

8. There is much force in the contentions raised by the learned counsel for the Respondent-Company. As earlier stated, as seen from Ex.M3 the Additional Mechanical Engineer by his letter dated 2-8-1982 recommended the name of D. A. Radha for consideration for promotion as E.P. Fitter, Grade 'D' as a special case in view of his exceptional skill in the work. His recommendation was accepted and he was posted as E.P. Fitter, Grade 'D' as a special case w.e.f. 1-9-1982. It is in the evidence of M.W2

Deputy Chief Engineer that the case of the workman Sambaiiah cannot be compared with the case of Radha. M.W2 stated in his examination chief thus : "Sri A. Radha joined our company in Category IV as Tin and Connersmith in the year 1978. Sri Radha has got previous experience of 15 years. Previously, he worked in National Coal Development Corporation, Balamela Dam Site in Orissa State. Sri Radha is having experience of dismantling and assembling of radiators of heavy earth moving machines and also oil coolers of heavy earth work. The nature of the job performed by Radha belongs to Grade type. He was performing grade type from the beginning i.e. when he was appointed in the year 1978. Sri Sambaiiah was not performing the same type of job. He was performing grade type job since 1990. We cannot compare the case of Radha who was having 15 years experience in the repairs of Radiators and oil coolers with that of Sri Sambaiiah who was having hardly one year experience and he was doing only soldering of leaking radiators of light vehicles and soldering of funnels and cleaning trays." In his cross examination also M.W2 stated thus : "Sri Radha was working as Tin & Connersmith at his previous place of work before he was selected in the Company. Tin and Connersmith is a Category job and hence he was selected initially in Category IV as Tin and Connersmith. Later after three years he was placed in Excavation Grade 'D' as E.P. Fitter because he was performing the job of Fitter i.e. dismantling, cleaning and assembling of radiators and oil coolers ..... Sambaiiah cannot discharge the skilled duties as Mr. Radha was doing. As an Engineer I am aware of the skills and experience of both Sri Radha and Sambaiiah and also I was supervising both of the jobs during the period from 1977 to 1990. When I was working as Executive Engineer & Divisional Engineer. Whereas Radha, immediately after allotment of job, used to complete the job without any guidance or deficiency. Sri Sambaiiah required guidance because he was having one year experience and fresh to the job. That too Mr. Radha's job was entirely different one which involves fitter as well as tin and connersmith job". M.W2 is a technically qualified Engineer and it was under him both Mr. Sambaiiah and Radha had worked during the period from 1977 to 1990. M.W2 has categorically stated on oath that Radha had better skills in his job than Mr. Sambaiiah and because of his skills in the job he was posted as E.P. Fitter, Grade 'D'. It is true that M.W2 is an Officer of the Respondent Company, but he is a responsible officer. Nothing has been elicited in his cross-examination to discredit his testimony. I do not find any reason to disbelieve the disinterested testimony of M.W2 with regard to the relative merits of Sri Sambaiiah and Sri Radha. According to him the relative merits of those workmen were considered and Radha was selected and posted as E.P. Fitter, Grade 'D' in view of his superior skills in the job. Further, the petitioner has not attributed any malafides on the part of the management for making discrimination against the workman Sambaiiah. There is nothing on record to show that Sambaiiah had been victimised due to unfair labour practice. It is well settled that whenever any promotion to higher post is to be made on the basis of merits, no employee can claim such promotion as a matter of right by virtue of his seniority alone with

effect from the date from which his juniors are promoted. In *STATE OF INDIA & ORS. v. MD. MYNUDDIN* [1987 (4) S.C. Cases page 486] their Lordships of Supreme Court observed in para 5 thus :

"Whenever promotion to a higher post is to be made on the basis of merit no officer can claim promotion to the higher post as a matter of right by virtue of seniority alone with effect from the date on which his juniors are promoted. It is not sufficient that in his confidential reports it is recorded that his services are 'satisfactory'. An officer may be capable of discharging the duties of the post held by him satisfactorily but he may not be fit for the higher post. Before any such promotion can be effected it is the duty of the management to consider the case of the officer concerned on the basis of the relevant materials. If promotion has been denied arbitrarily or without any reason, ordinarily the court can issue a direction to the management to consider the case of the officer concerned for promotion but, it cannot issue a direction to promote the officer concerned."

In the instant case, there is nothing on record to show that the promotion was given to Mr. Radha arbitrarily or due to malafides on the part of the management against the workman Sambaiiah. On the other hand, there is ample evidence on record to show, as earlier discussed above, that the promotion of Radha was due to his superior merit and skills in the job.

9. There is also much force in the contention of the learned counsel for the Respondent-Company that the claim of the workman Sambaiiah has become stale due to efflux of time. The promotion of Radha was effected as E.P. Fitter, Grade 'D' w.e.f. 1-9-1982 and Sambaiiah was promoted to the said post under Ex.W8 w.e.f. 1-3-1990. As seen from Ex.W7 Radha was promoted as E.P. Fitter, Grade II on 26-6-1989. The workman Sambaiiah did not choose to raise even his little finger either in 1982 or in 1989 while Radha was promoted ignoring his seniority. He raised the dispute in the year 1993 for the first time i.e. after a lapse of more than a decade. The workman Sambaiiah slept over the matter from 1982 to 1993 and he has not come up with any explanation for the delay in preferring the claim at a belated stage. There are catena of cases of our High Court other High Courts and Supreme Court wherein it is held that the delay of four years and above in raising the claim is highly delated and has become stale and no relief can be granted to the workman. In *K.V. PRASANNA KUMAR v. RAYALASEEMA GRAMEENA BANK, CUD-DOPPAH* [1994 (III) A. L. T. page 621 Division Bench of our High Court held thus :

"That the Writ Petitioners did not feel aggrieved by the promotions on May 3, 1988 is evidence from the fact that not only they kept quite till promotions for the subsequent

year 1989 were made. But they submitted themselves to the process of promotion for the year 1989. If the employees stand by and allowed things to happen, such employees shall not be permitted to raise stale claims at a belated stage. Otherwise, settled matters become unsettled. As laid down by the Supreme Court, a person aggrieved by the promotion of his Colleague, who is junior to him, should approach the Court at least within six months or at the most within one year of such promotion. The Court will not normally inquire into a belated and stale claim, as such inquiry may lead to an unhealthy practice resulting in improper exercise of discretion. It is no doubt true that no hard and fast rule can be laid in such matter and it all depends upon the facts and circumstances of each case having regard to the nature of the breach of funds on a right and the remedy claimed.

In case of belated and stale claims, the Court will have to look into the conduct of the parties, which have approached the Court, and the rights that have accrued in favour of others. In this case, the writ petitioners did not raise their little finger objecting to the promotions made on May 3, 1988 till promotions for the year 1989 were completed.

Again at page 634 in the same decision, Division Bench observed thus :

"As laid down by the Supreme Court, a person aggrieved by the promotion of his colleague, who is junior to him, should approach the Court at least within six months or at the most within a year of such promotion, vide *P.S. Sadasivaswamy Vs. State of Tamil Nadu* [1976(I) S.C. Page 53]. The relevant portion of the judgement is extracted.

"Not only respondent 2 but also respondents 3 and 4 who were the appellant's juniors became Divisional Engineers in 1957 apparently on the ground that their merits deserved their promotion over the head of the appellant. He did not question it. Nor did he question the promotion of his juniors as Superintending Engineer over his head. He could have come to the Court on every one of these three occasions. A person aggrieved by an order of promotion a junior over his head should approach the Court at least within six months or at the most a year of such promotion. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226. Nor is it that there can never be a case where the Courts cannot interfere in matter after the passage of a certain length of time, but it would be a sound and wise exercise of discretion for the Courts to

refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and the approach the Court to put forward stale claims and try to unsettle settled matters."

In DEHRI ROHTAS LIGHT RAILWAY CO. v. DISTRICT BOARD, BHOJPUR [1992 (II) S.C.C. page 598] Their Lordships of Supreme Court observed thus :

"The rule which says that the Court may not enquire into belated and stale claim is not a rule of law but a rule of practice based on sound and proper exercise of discretion. Each case must depend upon its own facts. It will all depend on what the breach of the fundamental right and the remedy claimed are and how delay arose. The principle on which the relief to the party on the grounds of laches or delay is denied is that the rights which have accrued to others by reason of the delay in filing the petition should not be allowed to be disturbed unless there is a reasonable explanation for the delay. The real test to determine delay in such cases is that the petitioner should come to the writ Court before a parallel right is created and that the lapse of time is not attributable to any laches or negligence. The test is not to physical running of time, where the circumstances justifying the conduct exist, the illegality which is manifest cannot be sustained on the sole ground of laches."

The decision in Sirhind Co-operative Marketing cum Processing Society Ltd. v. Presiding Officer, Labour Court & anr, (1991 (II) SLR page 487 Haryana and Punjab High Court and in Bhoop Singh v. Union of India and ors. [1992 (4) SLR page 761] are also to the same effect.

Considering the circumstances in this case the claim of the workman B. S. Sambaiah has become stale and he has put forward the stale claim only to unsettle the settled matters.

10. In the light of my above discussion, I hold on Point (1) that the action of the Respondent-Management in denying promotion to the workman Battu Sambaiah on par with Sri D. A. Radha is justified and legal. The point is thus decided in favour of the Respondent-Management and against the Petitioner-workman.

11. Point (2) : This point relates to the relief to be granted to the workman Battu Sambaiah. In view of my finding on Point No. 1, the workman Battu Sambaiah is not entitled for any relief in this reference.

12. In the result, Award is passed stating that the action of the Respondent-Management in denying promotion to workman Battu Sambaiah on par with his junior D.A. Radha is justified and legal and that

the workman Battu Sambaiah is not entitled for any relief. The reference is thus answered. The parties are directed to bear their costs.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 4th day of April, 1996.

A. HANUMANTHU, Industrial Tribunal-I

#### Appendix of Evidence :

Witnesses Examined on behalf of the Petitioner :

M.W1—M. Rama Krishnaa.

Witnesses Examined on behalf of the Respondent :

W.W1—M. Rama Krishna.

M.W2—K. Ram Krishna.

Documents marked for the Petitioner :

Ex. W1 12-12-76—Office order of Sri B. Sambaiah appointing as apprentice trainee.

Ex. W2 8-3-92—Xerox copy of office order issued to B. Sambaiah.

Ex. W3 21-1-78—Xerox copy of office order issued to B. Sambaiah by Addl. G. M. Area-II Ramagundam Divn.

Ex. W4 20-12-78—Xerox copy of the office order issued by Sri D. Radha.

Ex. W5 20-10-78—Xerox copy of the office order issued to R. D. Radha by Addl. General Manager, Godavarikhani.

Ex. W6 25-10-89—Xerox copy of the proceedings issued to D.A. Radha.

Ex. W7 22-6-89—Xerox copy of the proceedings issued to D.A. Radha.

Ex. W8 31-10-90—Xerox copy of Office order issued to B. Sambaiah.

Documents marked for the Respondent :

Ex. M1 21-9-78—Recommendation letter regarding recruitment for the post of Tin & Coppersmith by Addl. Chief Engineer, Operations Project regarding Radha.

Ex. M2 21-9-78—Experience Certificate of A. Radha

Ex. M3 21-9-78—Office note dt. 31-8-82 & 2-8-82.

नई दिल्ली, 5 जून, 1996

का.आ. 1928 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार से. भारत कोकिंग कोल लि. की अलकुन्दर कोलिरी के प्रबन्धन के संबंध निषेधकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचवट को प्रकाशन करती है, जो केन्द्रीय सरकार का 4-6-98 को प्राप्त हुआ था।

[संख्या एल-20012/52/91-आई आर (कोल-I)]

ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1928.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Junkunder Colliery of M/s. B.C.C.L. and their workmen, which was received by the Central Government on 4-6-96.

[No. L-20012/52/91-IR (Coal-I)]

BRAJ MOHAN, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT  
DHANBAD

PRESENT :

Shri D. K. Nayak, Presiding Officer  
In the matter of an Industrial Dispute under  
Section 10(1)(d) of the I.D. Act, 1947  
Reference No. 111 of 1991

PARTIES :

Employers in relation to the management of  
Junkunder Colliery of M/s. B.C.C.L.  
and their workmen.

APPEARANCES :

On behalf of the workmen—Shri B. B. Pandey, Advocate

On behalf of the employers—Shri B. Joshi, Advocate

STATE : Bihar INDUSTRY : Coal  
Dated, Dhanbad, the 22nd May, 1996

### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/(52)/91-J.R. (Coal-I), dated the 26th July, 1991.

### SCHEDULE

“Whether the action of the management of Junkunder Colliery of M/s. BCCL in denying employment to Shri Sahdeo Gorai, delisted casual wagon loader, as Badli Miner|Loader even after putting in 84 days attendance during 1973—76 is justified? If not, to what relief the workman is entitled?”

2. To meet the point of reference as mentioned above the concerned workman Sahdeo Gorai claiming to be delisted casual wagon loader as Badli Miner|Loader filed the W.S. stating inter

alia that he was delisted casual wagon loader of Junkunder Colliery under M/s. BCCL (hereinafter referred to as management).

3. A decision was taken by the management in April, 1986 to the effect that such delisted casual wagon loaders who have completed at least 75 days attendance during the period 1973, 74, 75, 76 and if the same appears from the roll of company they should be provided with a job with the job of Badli Miner|Loader.

4. The concerned workman actually during the stipulated period had put in 84 days attendance which is obviously more than 75 days and thereby he is entitled to be provided with the employment as stated above.

5. In support of his work for the said term a certificate was granted from the management side as it was so granted to his other co-worker and out of which some have already been absorbed.

6. In view of such certificate this concerned workman acquired a right to get his job as Badli Miner|Loader pursuant to the decision taken by the management but reason best known to the management though his name appeared in the roll of the company as his co-workers names stood but he was not provided with the management. Of course, some of his co-workers were provided so.

7. The said act of the management is illegal and the management in denying the employment to the concerned workman, delisted casual wagon loader as Badli Miner|Loader in spite of the fulfilment of requirement has deprived this workman from his legitimate right and thereby he is entitled to be appointed as Badli Miner|Loader from the date of starting of implementation of such decision.

8. The management in reply to their W.S.-cum-rejoinder has admitted that Shri Gorai worked as claimed and the decision of appointing Badli Miner|Loader who have completed 75 days attendance by way of working under ground mines during the period 1973—76 has also been admitted. But it is stated that Junkunder Open Cast Project is an Open Cast Project and thereby the persons working there in the said capacity was not entitled to get the benefit of the decision. Furthermore it is stated that pursuant to the decision taken circular was issued to the different collieries and interviews were taken and the persons who were found eligible were selected as Badli Miner|Loaders. But as the concerned workman was not able to fulfil the requirement on merit test his claim cannot be entertained and thereby he is not entitled to get any relief.

9. In the rejoinder it is stated that it is not correct to say as a matter of rule that all delisted casual who have put in 75 days attendance during

the period 1973—76 shall be provided as Badli Miner/Loader but they are to fulfil the requirement as stated earlier.

10. It is stated further that the persons eligible were recruited and this workman neither applied nor was eligible so his claim is not sustainable.

11. In the rejoinder the workman has stated that supply of wagon was related with the production of coal and the statement made in different paras by the management in their W.S. are misleading and contrary to the actual state of affairs. According to the concerned workman all types of mines where production is done Miner/Loader is needed but the management made a discrimination in the matter of implementation of the decision and this concerned workman is a victim of such discrimination.

12. In the instant reference the main points which are needed to be decided are as follows :—

- (1) That the concerned workman Shri Gorai was a delisted casual wagon loader and he completed 75 days attendance during the period of 1973—76.
- (2) That in view of the circular as alleged he is entitled to get to be regularised to get employment as Badli Miner/Loader in view of putting of 75 days attendance during the period of 1973—76.
- (3) If so, what relief can be granted to him.

13. For the management one witness has been examined who is Ramdhani Nonia, MW-1, Besides this oral evidence nothing has been produced from the side of the management as in support of their contention.

14. On behalf of the workman three witnesses have been examined and their evidence can be stated later on. Besides that he has submitted a certificate from the management under the signature of Personnel Officer and Agent of the Colliery concerned under M/s. B.C.C.L.

15. After careful scrutiny of the evidence of MW-1 who was loading Munshi in the year 1973 and now loading Clerk had deposed that this Sahadeo Gorai never worked in the colliery though he identified in the Court room. He has given explanation for his identification that Shri Gorai used to reside near the basti close to their quarter. However in cross-examination he could not deny the certificate marked Ext. W-1 signed by the Agent and the Personnel Officer of the colliery. I have carefully perused the W/B filed by the management but nowhere it is specifically stated that the concerned workman never worked in Junkunder Colliery or anywhere in the management of M/s. BCCL at any point of time which has come from the statement of MW-1.

16. Therefore I am constrained to observe that MW-1 Ramdhani Nonia has come forward to this Court just to oblige the management for the reason best known to him.

17. In this premises I cannot but comment that when the fact is admitted that there was system of working through delisted casual workers as Badli Miner/Loader and their attendance was recorded by the management upon which they came to a decision who have completed 75 days attendance during the period of 1973—76 then what led the management not to produce the said attendance register to establish the fact that Shri Gorai never worked in Junkunder Colliery during the stipulated period.

17. In the factum of non-production of the said register from the side of the management speaks a volume and it draws on adverse inference under Section 114 of the Evidence Act that the said document is withheld only for the reason that the document would go to show that Shri Gorai worked as a delisted casual wagon loader and had completed 75 days of attendance.

19. However, the document marked Ext. W-1 which is pasted with the photograph of the concerned workman issued under the signature of the Loading Clerk, Personnel Officer and Agent and admitted by MW-1 himself given a death blow to the case of the management and the statement of MW-1 lead to establish the fact that actually Sahadeo Gorai son of Biharilal Gorai worked as a delisted casual worker of Junkunder Colliery and he completed therein his work for a period of 84 days as per colliery record, having Sl. No. 78.

20. In view of such document which remains unchallenged it is too a big pill to swallow the statement of the management witness that he never worked in Junkunder Colliery as delisted casual wagon loader and I cannot check my temptation to say that this witness has got no regard for truth and he is ready to go forward at any length for obliging the management.

21. So considering the legal aspects and the facts as stated above and the relying upon the document Ext. W-1 I have no hesitation to hold that the concerned workman Shri Sahadeo Gorai worked as delisted casual worker in Junkunder Colliery and completed 84 days attendance as per colliery recording having his Sl. No. 78 during the period 1973—76.

22. No responsible person has come forward to deny the said fact on the other hand it is the evidence of three witnesses namely Darash Ram Sannami WW-1, B. K. Prasad WW-2 and the concerned workman himself that Shri Gorai has worked as stated earlier, and thereby I accept the version

of the workman that he was a delisted casual worker of Junkunder Colliery and completed 84 days attendance during the period of 1973—76.

23. It is not disputed that a circular was issued in the year 1980 as contended by the concerned workman who worked as Badli Miner/Loader out of the delisted casual wagon loader and who have put in 75 days attendance or more during the period 1973—76 to ensure and deploy them when the work is available and each colliery would maintain a register which would be called Badli Register, having different columns therein.

24. It is the stand of the management that within that circular it is stipulated that interview has to be taken place amongst persons who have completed 75 days work and after considering their suitability they should be absorbed.

25. This fact has been denied by the workman. I fail to understand when there is documentary evidence then why the parties will fight amongst themselves only relying upon the oral evidence.

26. It is needless to comment that the workman may not have that circular but it is the official circular of BCCL and what prevented himself to produce that circular in the Court to establish the fact what requirements were mentioned in the particular circular for arriving at an actual decision.

27. So I have no hesitation to say that this is an example how the BCCL management proceeds with the case and places the fates of the workers simply fighting the case in the air without producing the document though they are expected to be in their custody and possession. and this leads to draw an inference that the fighting is made by the management of BCCL not to establish the truth but to deprive the actual person who are not in their good book so that the Court be deprived from seeing the actual position and circular for arriving at a correct decision and conclusion.

28. Again I draw the attention of the management that there is specific provision in the evidence Act that if a document is within the control of some person and if he withholds it intentionally knowing fully well that it would go against him then the law contemplates that an adverse inference would be drawn against him and it would be presumed that he is withholding the same for the purpose so that truth does not come out and he wants to keep the Court in darkness depriving to unearth the truth.

29. In order to safeguard such devise law contemplates that this is withheld only in order to conceal the truth which has happened in the instant case.

30. Thereby from the trend of the evasive W.S. of the management I am unable to accept that any decision was taken as regard the deployment of

Badli Loaders with any other condition except the period of attendance and thereby I have no hesitation to hold that this concerned workman has been able to prove both from the oral and documentary evidence that he completed 84 days attendance during the period 1973—76 as delisted casual wagon loader specially in view of the fact that the management has withheld the document from which the truth could come out, and also by non-examining the competent person who could tell the truth.

31. Rather a person has been examined who has palpably deposed untruthfully to ablige the management.

32. Accordingly in view of the materials present on record I am constrained to hold that the concerned workman has been able to establish the fact that for completion of his attendance for a period of 84 days during the period 1973—76 and he is entitled to be employed being a delisted casual wagon loader as Badli Miner/Loader as per decision taken in the year 1980 and by not doing so the action of the management of Junkunder Colliery under M/s. BCCL is not justified. He should be employed as Badli Miner/Loader as per admitted position mentioned and accepted both by the management and the workman and thereby it is directed that the concerned workman would be enlisted as Badli Miner/Loader and his name should be incorporated in the Badli Register after observing the formalities in this regard within one month from the very date of publication of the Award. However, under the present facts and circumstances as the employment of Shri Gorai the concerned workman was not permanent one but he worked as Badli worker in place of permanent Miner/Loader no back wages is given and he should be paid wages as per rules prevailing in this regard as and when he would work as Badli Miner/Loader pursuant to this Award.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ.1929. : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. लि. के प्रबन्धतंत्र के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-96 को प्राप्त हुआ था।

[मंख्या एल-20040/43/94-आई आर (कोल-1)]

ब्रज मोहन, हेल्ड अधिकारी

New Delhi, the 5th June, 1996

गई दिनी, 5 जून, 1996

S.O. 1929.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ONGC Ltd. and their workman, which was received by the Central Government on 4-6-1996.

[No. L-20040/43/94-IR(Coal-I)]

BRAJ MOHAN, Desk Officer

## ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 135 of 1995

In the matter of dispute :

## BETWEEN

Shri Satish Kumar,  
S/o. Shri Madan Mohan,  
Village-Tunwala,  
Shamsher Garh,  
Dehradun.

## AND

The General Manager (P),  
Oil & Natural Gas Commission Ltd.,  
Tel Bhawan,  
Dehradun.

## AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-20040/43/94-I.P.(C.I), dated 22-11-95, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of O.N.G.C. in terminating the services of Shri Satish Kumar S/o Sri Madan Mohan w.e.f. 1-12-1987 is legal and justified ? If not, to what relief is the workman entitled ?

2. In spite of repeated opportunities, having been given to the concerned workman, he neither filed any claim statement nor put in appearance in the Tribunal. It appears that he is not interested in the case.

3. Hence my answer to the reference is in the affirmative and against the concerned workman for want of proof. He is not entitled to any relief.

4. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

कांसा. 1930 -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने भारत कोकिय क्षेत्र लि. का चंच विक्टोरिया क्षेत्र सं. 12 के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में, कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचवट को प्रकाशित करती है, जो केन्द्रीय सरकार का 4-6-96 को प्राप्त हुआ था।

[संख्या एल-20012/69/88-डी-2 (ए)/आई आर (कोल-1)]

ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1930.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chanch Victoria No. 12 of M/s. BCCL and their workmen, which was received by the Central Government on 4-6-96.

[No. L-20012/69/88-DII(A)/IR(Coal-1)]

BRAJ MOHAN, Desk Officer.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT TRIBUNAL (No. 2) AT DHANBAD

Shri D. K. Nayak, Presiding Officer.

## PRESENT:

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 154 OF 1993

## PARTIES:

Employers in relation to the management of Chanch Victoria Area No. 12 of M/s. BCCL and their workmen.

## APPEARANCES:

On behalf of the workmen : Shri S. Bose, Secretary, RCMS Dhanbad.

On behalf of the employers,—Shri B. Joshi, Advocate.

State: Bihar

Industry : Coal

Dated, Dhanbad, the 16th May, 1996

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following

dispute to this Tribunal for adjudication vide their Order No. L-20012 (69)88-D.2(A) I.R. (Coal-J), dated, the 8th/13th September, 1993.

### SCHEDULE

"Whether the action of the management of Chanch Colliery, Junkunder Open Cast Project and Basantimata Colliery of M/s. BCCCL in employing S/Shri Mihir Kumar Paramanik, Mona Bouri and Vishwanath Mondal, as per their circular No. D(P) PS(86)2649-949(H) dated 9-5-86, is justified? If not, to what relief these workmen are entitled to?"

2. The parties i.e. the workmen and the management have filed their respective W.S.-cum-rejoinder for the adjudication of the reference made to me.

3. The workmen in his W.S. in nutshell has stated that he is a delisted casual labour and as per decision of the management he applied for enlisting him as Badli Miner/Loader but that was refused. Thereafter a dispute was raised by him which was not entertained by the competent authority. As a result he had to take shelter of the Hon'ble High Court at Patna and the Hon'ble Judge of the Ranchi Bench while disposing of the case CWJC No. 1661 of 1993 (R) between Mihir Kumar Paramanik Vrs. Union of India passed judgement directing the authority concerned to make a reference to the appropriate Industrial Tribunal, Central Government by the judgement dt. 30-9-1993.

4. Initially R.C.M.S. Dhanbad raised the dispute in respect of many persons including Biswanath Mondal and others for giving employment as Badli Miner/Loader according to the policy taken by the management having attendance of 75 days of such delisted casuals during the period 1973-76. Similar case was decided by this Tribunal giving reliefs sought for by the workmen similar to the prayer made in the instant reference by an Award passed on 10-10-91.

5. The present reference is in respect of three persons namely Mihir Kumar Paramanik, Mona Bouri and Viswanath Mondal. However, Mona Bouri had expired in the meantime and Viswanath Mondal had already been absorbed pursuant to the Award given in Ref. No. 13087 of this Tribunal and thereby the present case only relates to the claim of Mihir Kumar Paramanik. It is the case of the said Paramanik that during the stipulated period he had completed 87 days attendance in Junkunder Open Cast Project and the said attendance would be available from the register maintained by the management and pursuant to the said register a list was published where the name of the concerned workman appears in Sl. No. 2 vide letter Notice No. PM[XII]13.10/Delisted Casuals[F] 155 addressed to all collieries from the highest authority.

6. In spite of such circular many delisted casuals were not enrolled as Badli Miner/Loader. So, already reference was made where Vishwanath Mondal was enlisted and this Paramanik stands on the same footing. So he also claims such benefit. Of course

Mona Bouri is debarred from getting the said benefit at he is no longer on the earth at present.

7. The management in their W.S.-cum-rejoinder which is big one in very twisted manner admitted the factum of enlistment of the delisted casual wagon loader as Badli Miner/Loader who completed 75 days attendance during the years 1973-76 subject to verification of Form B, Identity Card etc.

8. According to that the management had stated further that this practice was continued from 1976 and their after no workman was allowed any such benefit in that manner. However, the management permitted in the year 1980 to enroll the required number of Badli Miner/Loader out of the delisted/unlisted casual wagon loaders on selection according to their suitability for the jobs of underground Miner/Loaders.

9. It is stated further that the circular dt. 4-8-80 does not confer any right upon any workman to get their enrolment as Badli Miner/Loader as a matter of routine work but it was subject to scrutiny and test and satisfaction of the management. Accordingly in the year 1986 the relevant circular dt. 9-5-86 was issued for the recruitment of the workmen to fill up the vacancies of Miner/Loaders belonging to Scheduled Caste/Scheduled Tribe including the persons who worked previously under the management in the same capacity and the persons who applied for, on interview some were enlisted. But this circular was cancelled thereafter and thereby at present the claim of the present workman cannot be sustained and the same is liable to be refused.

10. In the rejoinder the facts stated in the W. S. of the workmen have been denied parawise. Also it is denied that the concerned workman Mihir Kumar Paramanik completed or put on 87 days attendance during the stipulated period alleging that he has adopted unfair means to get job through this litigation.

11. In the instant case both the parties have adduced their oral evidence besides the documentary evidence marked therein.

12. MW-1 Ramdhani Nohia had deposed that in the year 1962 he was appointed in Junkunder Open Cast Project as Loader and he became loading Clerk therein in the year 1979 and he did not see the concerned workman to work in the said project. However, in cross-examination at the last line he has been constrained to admit that he was not aware used to work as Wagon Loader.

13. MW-2 Rama Prasad Majumdar who joined as Welfare Officer in 1970-77 in Junkunder Open Cast Project had deposed that he was there till 1990 and after closure of the project he has been transferred to other place. According to him it was closed in the year 1984 and thereby there is no scope of giving any job to the delisted worker in the said Project. The permanent employees have also been transferred to different collieries. Be that as it may in the examination-in-chief he has

deposed that he cannot say whether the claimed workmen including the present workman ever worked in Junkunder Open Cast Project. He had also stated about the seizure of some documents pursuant to the allegation of false attendance and he is the person from whom the seizure were made and he has proved the seizure list Ext. M-1. According to him Mr. A. K. Banerjee was the Dy. C. P. M. and he was chargesheeted and on proof of the said charge he was demoted and the claim of the concerned workman is false one.

14. WW-1 Viswanath Mondal has stated that he is in the service of the company since 28th February, 1993 and he knew Shri Mihir Kumar Paramanik and Mona Bouri and they used to work with him. Of course in the present case he has no claim as he had already been absorbed on the basis of the Award referred to above.

15. In cross-examination he had stated that Mona Bouri had expired in the meantime. WW-2 is Mihir Kumar Paramanik who is the concerned workman. According to him Viswanath Mondal had been absorbed who stands on the same footing and he had stated further that he had papers to show that he worked as delisted casual worker and that paper is the Medical paper which will reflect that he was medically examined being a worker herein.

16. WW-3 Samir Chatterjee, Area Secretary of the R.C.M.S. has proved the medical Certificate of the Medical Board of the concerned workman marked Ext. W-1 and the Circular under the signature of the Area Manager showing the names of 15 workers marked Ext. W-2 where the name of the concerned workman appears in Sl. No. 2. The judgement of the Hon'ble High Court has been marked as Ext. W-3 and the Award of the Tribunal No. 2, Dhanbad on the same footing and on the same ground had been marked as Ext. W-4. According to this witness Viswanath Mondal had already been absorbed by the management but it is only in respect of Mihir Paramanik, the concerned workman. Actually the headquarters approved the appointment of Mihir Paramanik for the job. So he appeared before the medical examination as I find from his cross-examination and he has proved the signature and has stated that Ext. W-1 and W-2 are genuine.

17. In the instant case some facts are admitted though it was submitted in a twisted manner by the side of the management. But whichever attempt is made, we cannot make white to be black and black to Newwhite and keeping our view from the said angle the entire matter has to be judged and this Tribunal would be in different to digested a substance which cannot be directed to in any manner irrespective to the language or the manner that is presented to.

18. It is not disputed that this Mihir Kumar Paramanik and some others used to work in Junkunder Open Cast Project a delisted casual during the period as 1973—76.

19. But it is curious enough that the management did to hesitate to deny the said fact inspite of the existence of their own document simplying stating

that it is forged one and there was chargesheet to that effect fixing up responsibility upon the person who created such document and that was initiated by CBI itself.

20. I cannot but comment simply saying the said fact would not meet the requirement which has to be established by the management beyond all reasonable doubts that the case was started by the C.B.I. ended with the establishment of charges of the concerned person who was punished for the same. But without producing any iota of materials in support of the same I cannot wipe out of the document of the management himself and an award already passed upon the same facts and in respect of persons who are standing on the same footing.

21. So ignoring the said contention of the management let me adjudicate the reference upon the materials present on record in rational manner nor with a motive of common vengence and partiality or whims of any officer of the management under any special circumstances.

22. Let me refer Ext. W-2 which till remains unchallenged where the name of the concerned workman appears in Sl. No. 2 showing that he has worked in the Colliery of Junkunder Open Cast Project for a term of 87 days and the relevant circular is for enlistment as claimed by the concerned workman and there is also such statement that if no complaint is made within 7 days from the date of publication of this notice it will be deemed that they are to continue and their case may be considered for their posting at the area mentioned therein. Ext. W-1 is the certificate where Mihir Kumar Paramanik s/o. A. K. Paramanik was examined on 4-3-81 by the Area Medical Board and he was found fit for the job of the loader recording his age therein. As this certificate has not been challenged by the management is anyway I fail to accept the contention of the management that these documents are forged and fabricated one.

23. It is not disputed by the management that a circular was issued from the side of the management that who had completed 75 days attendance as delisted casual they would be enrolled as Badli Miner[Loader and it is also in Ext. M-4 that they would be regularised on completion of 190 days.

24. No doubt this was cancelled subsequently but the right accrued as per the circular of 1980 and on the basis of the said circular the present workmen claiming.

25. Besides that in respect of Viswanath Mondal and others a reference was made before this Tribunal and an award was passed by Mr. B. Ram, Presiding Officer, Central Govt. Industrial Tribunal No. 2, Dhanbad and pursuant to the said Award it is admitted that Viswanath Mondal has been enrolled as Badli Miner[Loader.

29. If that be so it is hard to accept that there was no circular to that effect and there was any condition stipulated before enlisting them such as interview suitability etc.

30. I am fortified with my observation as because no documents is forthcoming from the side of the management that any interview was taken for enlisting Badli Miner/loader amongst the persons who worked as delisted casuals during the period 1973—75 and in that case I am of the opinion that this story is an outcome of fertile brain of any Officer or any person attached to the management in which ever capacity in order to deprive the genuine workmen giving some camouflage or rider in view of the Award and other facts present in support of his claim. In the other words documents marked for the management do not against the claim of the concerned workman.

31. It is not the case that the said Award has been challenged anywhere, rather it has been implemented then if this Award be implemtented why Sri Paramanik would be deprived from getting the benefit of said circular standing on the same footing simply for the whims and vindictive attitude of some people and officials of the mangement for the reasons best known to them.

32. Thereby considering all the materials on record I cannot but hold that the concerned workman Mihir Kumar Paramanik was a delisted casual and he completed 75 days attendance in that capacity during the period 1973—76 and this was supported by the document marked Ext. W-1 and W-2 and thereby I have no doubt to accept the case of the concerned workman to be a delisted worker of the concerned project as claimed and in view of the circular in question he should be enlisted and enrolled as Badli Miner/loader specially in view of the Award which has already been implemented and marked Ext. W-4.

33. I cannot but comment that this practice of oppression of the labour by the side of the management and to adopt the policy of divide and rule by way of giving benefit of some circular to one set of people and by depriving others cannot be appreciated rather it is condemned. The mangement should be fair and frank and no discrimination will be done in respect of the genuine workmen if they can establish so otherwise the highest authorities of the BCCL should take up the matter for future guidance for fixing up the liability of the officer or officials concerned who encouraged to proceed this type of litigation at the cost of the Government exchequer in that case if it is found to be motivated the entire cost of the litigation should be recovered from them in the manner as it would be thought by the management.

34. Accordingly in view of the discussion made above, in conclusion it is held that Shri Paramanik has been able to establish beyond all reasonable doubt that he worked as delisted casual Miner/loader during the period 1974—76 and he discharged the duties for more than 75 days and thereby he is entitled to be enrolled as Badli Miner/loader. But considering the fact that the work of Badli Miner/loader are utilised in substitute when the usual workers remain absent and thereby it is stated clearly that in no case he can be allowed with back wages as claimed. However, he is entitled to be enrolled as

Badli Miner/loader holding that this position is continuing without any break.

35. Accordingly the management is directed to enrol the concerned workman Mihir Kumar Paramanik as Badli Miner/loader in continuance of the circular made in this regard giving retrospective effect of that date but having no right of back wages.

This is my Award.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ. 1931:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार अमर कोक कार्पोरेशन के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-96 को प्राप्त हुआ था।

[संख्या एल-20012/4/87-डी-III(ए)/आईआर (कोल-I)]

ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1931.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Amar Coke Corporation and their workmen, which was received by the Central Government on 4-6-96.

[No. L-20012/4/87-D-III(A)] [IR(Coal-I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (NO. 2) AT  
DHANBAD

PRESENT :

Shri D. K. Nayak,  
Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1) (d) of the I. D. Act, 1947.

REFERENCE NO. 120 OF 1987

PARTIES :

Employers in relation to the management of  
Amar Coke Corporation and their workmen.

**APPEARANCES :**

On behalf of the workman : None.

On behalf of the employers : None.

STATE : Bihar INDUSTRY : Coke

Dhanbad, the 21st May, 1996

**AWARD**

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(4)|87-D. III. (A), dated, the 14th April, 1987.

**SCHEDULE**

“Whether the action of the management of Amar Coke Corporation, Post Chirkunda, Distt. Dhanbad in dismissing the workmen in Annexure with effect 10th June, 1986 is justified ? If not, to what relief these workmen are entitled ?”

**ANNEXURE**

1. Sh. Vijay Chouhan, Trolleyman
2. Umesh Prasad, Fireman
3. Sh. Shupdeo Manjhi, Fireman
4. Md. Kayum, Fireman.
5. Sh. Mahadeo Paswan, Trolleyman
6. Md. Allaiddin, Fireman
7. Sh. Mahendra Paswan, Fireman.

2. Soon after the order of reference notices were duly served upon the parties. But neither of the parties has turned up nor took any steps. Thereafter several adjournment were granted to them and notices were issued. But inspite of the issuance of the notices none of the parties has turned up. It therefore, leads me to an inference that there is no dispute existing between the parties presently and in the circumstances, I have no other alternative but to pass a 'No dispute' Award in this reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.प्र. 1932 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी. सी. एल. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद नं. 2 के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 3-6-96 को प्राप्त हुआ था।

[सं. एल-24011/7/86-डी-4 (बी)]

राजा लाज, डैस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1932.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Dhanbad No. 2, as shown in the Annexure in the industrial dispute between the employers in relation to the management of C. C. Ltd., and their workmen, which was received by the Central Government on the 3-6-96.

[No. L-24011/7/86-D-IV(B)]

RAJA LAL, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL (No. 2) AT  
DHANBAD

**PRESENT :**

Shri D. K. Nayak, Presiding Officer.

In the matter of an Industrial Dispute under  
Section 10(1)(d) of the I.D. Act., 1947.  
Reference No. 181 of 1987

**PARTIES :**

Employers in relation to the management of  
Sawang Group of Central Coalfields  
Ltd. and their workmen.

**APPEARANCES :**

On behalf of the workmen.—None.

On behalf of the employers.—None.

STATE : Bihar. INDUSTRY : Coal.

Dhanbad, the 23rd May, 1996

**AWARD**

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24011(7) 86-D. IV (B) dated, the 26th June, 1987.

**SCHEDULE**

“Whether the action of the Management of Sawang Group of C. C. Ltd., (Kathara Area) P. O. Sawang, Distt. Giridih in transferring S/Shri Kamlesh Singh, N. K. Singh, Balchand Choudhary and Sachindra Prasad due to their Trade Union activities, is legal and justified ? If not, to what relief the workmen concerned are entitled ?”

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But none of the parties turned up nor took any steps. Thereafter several adjournments were granted to them and notices were issued. But

inspite of the issuance of the notices they neither appeared nor took any steps. It therefore leads me to an inference that there is no dispute existing between the parties presently and in the circumstances, I am constrained to pass a 'No dispute' Award in this reference.

D. K. NAYAK, Presiding Officer

नई दिल्ली, 5 जून, 1996

का.आ. 1933 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. आर.डी. इन्टरप्राइसेस के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-6-96 को प्राप्त हुआ था।

[संख्या एल-20040/79/94-आई आर (कोल-1)]  
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 5th June, 1996

S.O. 1933.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 1), Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. R. D. Enterprises and their workmen, which was received by the Central Government on 4-6-96.

[F. No. L-20040/79/94-IR(C-I)]

BRAJ MOHAN, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL No. 1, MUMBAI  
PRESENT :

Shri Justice R. S. Verma, Presiding Officer  
Reference No. CGIT-1/50 of 1995

PARTIES :

Employers in relation to the management of  
M/s. R. D. Enterprises.

AND

Their Workmen

APPEARANCES :

For the Management.—Shri Ram Rikhiani,  
Advocate.

For the Workman.—Shri Wagh, Advocate.

INDUSTRY : Oil & Natural Gas

STATE : Maharashtra.  
Mumbai, dated the 13th day of May, 1996

## AWARD

The matter comes up on application of union filed by Shri S. R. Wagh today.

Shri I. K. Ram Rikhiani present for O.N.G.C. He has been supplied with copy of the application. By this application, the union withdraws its demand. The other side has no objection.

In view of this, the dispute does not survive and a 'no dispute' award is made. The same be notified and got published as per law.

R. S. VERMA, Presiding Officer

नई दिल्ली, 7 जून, 1996

का.आ. 1934 :—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 मुम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 5-6-96 को प्राप्त हुआ था।

[संख्या एल-12012/12/93-आई आर (बी-II)]  
ब्रज मोहन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1934.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workmen, which was received by the Central Government on 5-6-96.

[No. L-12012/12/93-IR(B-II)]  
BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/44 of 1993

Employers in relation to the management of  
Bank of Maharashtra.

## AND

Their Workmen

## APPEARANCES :

For the Workmen—Mr. Vinayak Karmakar  
Representative

For the Employer.—Mr. R. G. Londhe Re-  
presentative.

Mumbai, dated 9th May, 1996

## AWARD

The Government of India, Ministry of Labour by its order No. L-12012/12/93-JRB II dated 12-5-93, had referred to the following dispute for adjudication.

“Whether the claim of Bank of Maharashtra Karmachari Sangh that Shri P. R. Joshi is working for more than 13 hours a week and that he is entitled for half scale wages instead of one-third scale wages is justified? If so, what relief is Shri Joshi entitled to and from what date?”

2. The general secretary of Bank of Maharashtra Karmachari Sangh had filed a Statement of claim at Exhibit-2. It is contended that the Bi-partite settlement provides for the wages to be paid to the part time sub staff. According to the provisions part time sub staff has to work for more than 13 hours in a week is required to be paid 1½ scale wages i.e. 1½ scale wages payable the full time sub staff.

3. One P. R. Joshi is working at Paitan Branch as a permanent part time sub-staff since 17-1-86. He was getting 1/3rd scale wages for the duties performed by him as part time sub-staff. Due to the additional new premises of the branch his working hours increased. He was required to perform 2-3 hours per day i.e. approximately 15—18 hours per week. He demanded enhancement of his wages by his representation dtd. 29-10-88. The branch manager recommended his claim by his letter dtd. 29-10-88. The Regional Manager of the bank agreed to enhance the wages by his letter dtd. 10-1-89 and send the sanction to that effect to the branch manager directing him to enhance the wages from 1-1-89. Joshi was conveyed. Accordingly the wages for the month of January 1989 were drawn as per the revised sanction letter but before it could be paid due to the telephonic message given by the Regional Manager, Paithan branch manager deferred payment at enhance rate. The worker made several representations to make the payment at enhance rate but it was not made. This action of the management is illegal. It is therefore,

prayed that it may be held that working hours of Joshi are more than 13 hours per week and he is entitled to scale wages at the rate of 1½ time scale wages w.e.f. 1-1-89. It is also prayed that the other necessary reliefs may be granted to him.

4. The management resisted the claim by the written statement Exhibit-3. It is submitted that looking to the areas of the branch, Joshi is required to work only 1 1/2 hour per day. It is therefore pleaded that the unions contentions that the works 2-3 hours per day is far from truth. It is denied that he is required to work for more than 13 hours per week and therefore entitled to 1½ scale wages. It is asserted that he is paid salary as per the provisions of Bi-partite settlement and therefore the unions demands for enhancement of the scale of wages is beyond the scope of provisions. It is therefore contended that no relief may be granted to the worker.

5. The union filed its rejoinder at Exhibit. 4. It is contended that the Regional Manager Aurangabad confirmed the enhancement and sanctioned the wages recommended by manager. Now it becomes the condition of service of the worker. Any change which is tried to be effected in his service condition without any notice, as contemplated under section 9A of the Industrial Disputes Act of 1947, is void. It is asserted that the worker is entitled to the reliefs as claimed.

6. The issues that fall for my consideration and my findings there on are as follows :—

| Issues  | Findings                      |
|---|-------------------------------|
| 1. Whether the worker Joshi is working for more than 13 hours a week ?              | Yes.                          |
| 2. It yes, whether he is entitled to 1½ scale wages instead of 1/3 rd scale wages ? | Yes.                          |
| 3. If so, what relief the worker is entitled to and from what date?                 | From 1-1-89 as per the order. |

## REASONS

7. It is not in dispute that the bipartite settlement dtd. 10-4-89 (Exhibit-5) para 18(1) deals with hours of work and payment of wages of part time sub-staff. It states that part time workmen who are members of subordinate staff shall be paid if their normal total working hours per week are more than 13 hours to 19 hours, 1½ scale wages proportionate national increments.

8. Joshi (Exhibit-7) the workman affirmed that on 17-1-86 he was transferred to Paithan on

the same post i.e. part time sub-staff. He was paid 1/3rd scale wages for work. He affirmed that his duties covered daily bringing the branch keys from the residence of the manager, daily sweeping the entire floor, daily fetching water for drinking and used to cleaning the ceiling windows, cans, grills and cleaning the floor with soap once in a week. He affirmed that he required 2 1/2 hours per day. In 1988 the branch acquired two additional rooms. Therefore his working hours were increased from 2 1/2 hours to 3 hours daily. He therefore submitted the representation dated 29-10-88 (Exhibit-7/1) for getting wages at 1/2 scales. He affirmed that the manager by his letter dated 29-10-88 (Exhibit-6/2) recommended to the Regional manager the scale which he claimed. He affirmed that the Regional Manager had sanctioned the claim and granted 1 1/2 scale wages by his letter dated 10-1-89 (Exhibit-6/3). His salary was drawn as per new enhanced scale for January, 1989.

9. Joshi affirmed that even though the wages were drawn no payment was made to him, even though his repeated requests. Arvind Vithal Rao (Ex.-9) who was working as Branch Manager since January 1993 affirmed that due to the nature of the work and the premises the workman was not required to work more than 13 hours per week. There is overhead tank or water supply and there is an electric motor for supply of drinking water. He tried to establish that the claim of the workman that he works for more than 13 hours per week is not correct. In the cross examination he admitted the photo copies of the muster roll of a relevant period produced alongwith Exhibit-10. He affirmed that he introduced the staff that he will not grant overtime to anybody and nobody should do overtime. Therefore he was not looking after the muster roll. Even if this is admitted to be true what is to be seen is whether the claim of the workman Joshi that he was required to work more than 13 hours per week is true. From the muster roll and from the testimony of Joshi which is corroborated by the recommendation of the manager and sanction by the Regional manager, I have no doubt in my mind that he was working more than 13 hours per week, but less than 19 hours per week.

10. It is tried to argue on behalf of the management that so far as the sanction by the Regional Manager to the claim of the and the sending the letter to that effect to the branch manager Paithan is internal correspondence. No claim can be passed on its basis. I am not inclined to accept this argument. From perusal of the letter Ex. '6/3' it clearly speaks that the Regional Manager asked the manager to convey Mr. Joshi regarding the sanction to 1 1/2 scale which he claimed. Accordingly that was intimated to him. It is pertinent to state that the Branch Manager wrote a letter dated 3-3-89 (Ex.-6/4) to the Regional Manager informing him that as they have conveyed the sanction to the worker it is difficult for them to

defer the payment any more. There is no correspondence on the record to show why the payment was deferred. In fact from the perusal of the Regional Manager's letters, it appears that he had considered the application of Joshi, the recommendation of the Paithan Branch Manager and got himself satisfied that the claim of Joshi is true and correct. Then only the claim was sanctioned. Now the bank wants to charge. There should be cogent reasons for doing so. There is no evidence to that effect. It is not that the premises of the bank are reduced or that any machinery is now used by bank by which the work load of Joshi is reduced or somebody additional is engaged to reduce the work load of Joshi. As this is so there is no justification for changing the decision which is already taken. There is no evidence to show that the working period which was accepted by the management to be more than 13 hours per week is reduced. Alongwith Exhibit-6 the workman had produced his several representation made to the management for making payment at the rate of 1/2 scale. Obviously it was not paid. The Regional Manager had sanctioned 1/2 wage scale from 1-1-89 which the worker accepted. For all these reasons I record my findings on the issue accordingly and pass the following order :—

#### ORDER

1. The claim of Bank of Maharashtra Karmachari Sangh that Shri P. R. Joshi is working for more than 13 hours a week and that he is entitled for 1/2 scale wages instead of 1/3rd scale wages is justified.
2. The management is directed to make the payment of wages at the rate of 1/2 scale wages to Mr. Joshi from 1-1-89.
3. The amount by way of wages which is already paid to him has to be deducted from this amount.
4. The management is directed to pay Rs. 300 as the costs of this reference to the union.

S. B. PANSE, Presiding Officer

नई दिल्ली, 7 जून, 1996

का. शा. 1935. -- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा दैक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच अन्तर्बन्ध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण 2 मुम्बई

के पञ्चाट को प्रकाशित करने हैं जो केन्द्रीय सरकार को 5-6-96 को प्राप्त हुआ था।

[पंजा नं-12012/6/89-डी-II ए/आई आर (बी-II)]  
ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 7th June, 1996

S.O. 1935.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, 2 Mumbai as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dena Bank and their workmen, which was received by the Central Government on 5-6-1996.

[No. L-12012/6/89-DIIA/IR(B-II)]  
BRAJ MOHAN, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

#### PRESENT :

Shri S. B. Panse, Presiding Officer  
Reference No. CGIT-2/26 of 1989

Employers in relation to the Management of  
Dena Bank

AND

Their Workmen

#### APPEARANCES :

For the Workmen—Shri J. C. Gadkari, Advocate

For the Employer—Shri R. S. Pai, Advocate  
Mumbai, dated 10th May, 1996

#### AWARD

#### PART-II

On December, 1994 I delivered the judgment in respect of issues Nos. 1, 2 & 3 in the reference No. L-12012/6/89-D.II(A)O dated 9-8-89. It was in respect of an order of Government of India, Ministry of Labour, I came to the conclusion that the Domestic Inquiry which was held against the workman was against the principles of Natural Justice, that the inquiry officer was not prejudicted against the workman and that the findings given by him are perverse.

2. In nutshell the facts of the case are that Shri N. S. Walanj the workman was appointed as a peon subordinate at Dena Bank, Kalyan Branch

w.e.f. 4-12-84. His working hours were from 10.00 A.M. to 6.00 P.M. He was given a charge sheet in respect of the incident dated 9-7-85 and 10-7-85. He was suspended on 16-12-85. A domestic inquiry was conducted against him and he was found guilty. By the order dated 11-10-86 he was dismissed from service without notice. His appeal was also rejected.

3. The issues that fall for my consideration and my findings thereon are as follows :—

#### ISSUES

#### FINDINGS

4. Whether the action of the management of Dena Bank in dismissing from service Shri N. S. Walanj is justified ? The action is justified

5. If not, to what relief is the workmen entitled ? Does not survive.

6. What Award ? As per order.

#### REASONS

4. The management was given an opportunity to lead evidence and justify its action. To bolster up the case the management examined eight witnesses after Part-I Award. It relied on the documents on the record also. Mr. Pai, the Learned Advocate for the management argued that the Bank preferred a writ petition No. 1448 of 1995 before the High Court of Bombay being aggrieved and mis-satisfied with the Part-I Award. He also produced copy of the minutes alongwith written arguments Exhibit-13. It is observed by Their Lordships that by consent of the parties findings of the second Respondent in Para 40 of the Main Order are deleted and the parties are at liberty to lead evidence on all points. On its basis it is tried to argue that the Bank is entitled to rely upon the admission of the workman admitting his guilt of drunkenness (Exhibit-E/4), Mr. Gadkari the Learned Advocate for the workman on the other hand submitted that Their Lordships permitted the parties to lead evidence in respect of the same and the Tribunal has to decide fresh regarding Exhibit-E/4. Mr. Pai the Learned Advocate for the management admits this position.

5. It is tried to argue by Mr. Gadkari the Learned Advocate for the workman that the charge is not at all proved. The evidence is not satisfactory. It is therefore, the punishment which is awarded to the workman has to be set aside. On the other hand Mr. Pai the Learned Advocate for the management submitted that the charge is duly proved. The punishment is proportionate to the charges proved and the Tribunal should not interfere with the same.

6. On 16-12-85 the charge sheet was issued to the workman. It states that when he was working as subordinate at Banks Kalyan Branch w.e.f. 4-12-84 his working hours were from 10.00 A.M. to 6.00 P.M. On 9-7-85 at about 12.00 P.M. he came to the branch in drunken condition and approached the officer Shri M. G. Pathkar and other clerks and shouted at them in a loud voice and asked them as to who had marked 'L' against his name in the muster. From 25-6-85 to 4-7-85 and also threatened them as under :

7. This portion on the charge sheet is in Marathi. It states that hence forth if anybody marks 'L' he will not spare him. If time demands he will be killed. What the manager thinks of himself. He will go to his house and kill him by sword and pull the golden chain from his neck. He will rob the bank's cash by using weapons.

8. It was further alleged that again on 10-7-85 the workman came with four strangers and entered the bank at around 11.30 P.M. and proceeded to the cashiers cabin with the intention of looting the cash belonging to the branch. On account of his such a rude and indecent behaviour all the employees of the branch struck their work and the working of the branch was thus paralyzed.

9. It is alleged that the act of the workman would have amounted to gross mis-conduct in terms of para 19.5 of the Bipartite settlement dated 19-10-86 and the following charges were levelled against him.

Doing any act prejudicial to the interest of the bank, involving or likely to involve the bank in serious financial loss.

B. Drunkenness or riotous or disorderly or indecent behaviour on the premises of the Bank, and

C. Wilful insubordination.

10. Mr. Gadkari, the Learned Advocate for the workman argued that all the witnesses before the Tribunal submitted that what is stated by them before the inquiry officer is correct and they have relied upon it. According to him that cannot be the evidence. I accept this proposition. But what is to be seen whether these witnesses have lead any evidence before the Tribunal to substantiate the action of the management.

11. Shri V. Venkatraman (Exhibit-19) Shri Srinivas Ganesh Tillu (Ex-20) and Shri Ajit Kumar Kothavle (Exhibit-21) Shri Suresh Waman Raiwade (Ex-22) and Mrs. Pratibha Madhukar Kulkarni (Exhibit-23). Mrs. Mughdha Manohar Bhagwat (Exhibit-24), Mr. Pandurang Shripat Pawade (Exhibit-25), and Shri Manohar Goopal Patankar (Ex-26) are the employees of the bank. Except Kothavle all of them claimed to be present on both days of the incident in the bank. So far as the evidence of Ajit Kumar Kothavle is

concerned he affirmed that whatever stated by him before the inquiry officer in respect of the incident dated 9th and 10th of July '85 is correct. But he admits that he was not present on 9-7-85 when the incident took place or claims to be present on 10-7-85. He had not narrated anything in respect of the incident dated 10-7-85. His evidence is without any merit. It does not support the case of the bank.

12. Venkatraman, Tillu, Pandurang Tawavade all of them corroborates each other and states that when the workman came in to the bank at about 12.00 noon on 9-7-85 he was in a drunken state. There is little difference between the testimony of each of them. Venkatraman deposed that he was smelling of alcohol. Tillu affirmed that he was in drunken condition and smelling alcohol. In the cross examination of these witnesses it is tried to bring on the record that drunkenness and smelling of alcohol are different. No doubt it is different. But so far as smelling of alcohol is concerned it is tried to argue on behalf of the management that in the Statement of Claim in para 7 it is stated that the workman consumed Toddy. As this is the admission it goes to support the case of the management. From the testimony of these witnesses and from the smell they wanted to elaborate. I have no hesitation in my mind that the workman was not in normal condition. He might have consumed Toddy in more quantity which resulted into feeling of these persons that he had consumed alcohol. It is needless to say that when the person goes to the office he should be in a normal state of things. It is also tried to argue on behalf of the worker that drunkenness is not defined in the Bipartite settlement. No doubts it is nor defined but it relates to intoxication. From the testimony of these witnesses his condition must be of a drunken person. It might be due to toddy or liquor ?

13. Venkatraman, Tillu, Raiwade, Kulkarni, Mughdha Bhagwat, Pandurang Tawade, Manohar Patankar all of them supports each other on the point that the workman on that particular time was shouting in a loud voice. There is no reason for all these witnesses depose falsely against the worker. There is a suggestion on behalf of the worker to these witness that they are deposing falsely on the suggestion of the management. But there should be some reason for the management to hetch the sorry. No such evidence is on the record to support that claim. It could be further seen that the management can pursue one employee or the other but not eight in number. It can be further seen that these witnesses have no enmity against the worker. Under such circumstances it is not acceptable that on the suggestion on the management they will depose falsely against the workman. No doubt Pratibha Kulkarni is in position to tell what were the words used by him. That does not change the position that the was

saying something in a loud voice. I may mention some of the witnesses are not in a position to give exact words because of the lapse of time as the incident had taken place about 10 years back. The worker appears to be a terror. It is because it is not in dispute that after the worker left the bank on 10-7-85 alongwith his friends the employees stopped working in the bank. It was due to the terror created by the worker. That itself might be the reason for all of them not to give the exact picture of the situation. In other words from the testimony of these witnesses it reveals that the worker's behaviour in the bank was indecent. His acts therefore were indecent and they were prejudicial to the interest of the business of the bank.

14. Venkataraman, Tillu, Mughdha Bhagwat, Pandurang Tawade, Manohar Patankar supports each other on the point that after entering into the bank the worker asked for the muster roll. It is true that there is no evidence to show that he asked to a particular employees regarding the availability of the muster roll. But from the testimony it appears that he just asked all of them in a loud voice where is the muster roll. He saw the same. He noticed that 'L' mark is put opposite to him for some days. In other words he was marked absent. Then he made inquiries who did so and there was a loud voice. So far as this much incident is concerned there is ample corroboration.

15. Mughdha Bhagwat, Manohar Patankar supports each other on the point that after seeing the late mark the worker said "what manager thinks of himself. Mughdha affirmed that the worker stated that he will go to the house of the manager and will see him. Patankar affirmed that the worker stated that hence forth if anybody marks leave in the muster roll against his name he will kill that man. These cannot be called as contradictions but at the same time missed it could be stated that they are the omissions by one witness from the other. This is bound to happen after lapse of ten years of time. These two witnesses affirmed that on the next date i.e. 10-7-85 the worker alongwith four outsiders came in the branch and went near the cash cabin and stood there after sometime they went back. Patankar affirmed that as the concerned clerk was not there the cash cabin was not open. So far as the presence of the worker on the fixed date i.e. 10-7-85 is concerned all these witness have affirmed to that effect. His going to the bank on the date is a result of his utterances of the earlier date.

16. It is admitted position that after the incident none of these employees reported the matter to the police but they gave a common application to the management against the worker. There are certain allegations against him. But they had not dissected much in respect of that application before tribunal. It is tried to suggest that that application

was given on the suggestion of the management which I repeat cannot be said to be correct. So far as these witnesses are concerned there is no reason to disbelieve them. From the testimony of these witnesses at the most it can be said that the management was not in position to prove certain allegations in the charge such as he would go to the manager place and pull his chain, that if time demand he would kill him, that he would go to his house and kill him by sword and that rob the bank by using a weapon. But sum and substance of the testimony of these witnesses is that the worker came in the bank, in the drunkenness. He behaved in indecent way, his utterances suggest wilful insubordination to the superiors and his actions were prejudicial to the interest of the bank involving or likely to involve the bank in a serious financial losses. It cannot be forgotten that the time which is given by these witnesses is the business period. It is common knowledge that at that time the customers came to the bank for their dealings. By such incidents it is likely that the interest of the bank so far as their business is concerned is likely to be demanaged.

17. The evidence which is required in the domestic inquiry is not like that in the criminal case the charge has to be proved beyond reasonable doubt. But so far as the domestic inquiry is concerned the evidence to be weighed on the preponderance of properties. It has to be seen whether the alleged incident was taken place or not. From the testimony of these witnesses there is no reason for not coming to the conclusion that the incident narrated in the chargesheet had taken place. For all these reasons I find that the bank has proved the charges against the worker.

18. After coming to these conclusion now it is to be seen whether the punishment which is awarded disproportionate to the charges proved. In view of para 19.5 the charges which are levelled against the worker are major misconduct. The dismissal is the proper punishment for the charges proved. Naturally the action of the management has to be stated to be justified, he is not entitled to any reliefs. Hence I pass the following order :

#### ORDER

1. The action of the management of Dena Bank in dismissal from service Shri N. S. Walanj is justified.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 10 जून, 1996

Kumar Agnihotri w.e.f. 2-7-91 is justified ? If not, what relief he is entitled to?

का.आ. 1936 .—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[सं. एल-40012/11/92-आई आर (डी यू)]  
पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 10th June, 1996

S.O. 1936.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Post and their workmen, which was received by the Central Government on 31-5-1996.

[No. L-40012/11/92-IR(DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING  
OFFICER, CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, PANDU NAGAR, DEOKI PALACE  
ROAD, KANPUR

Industrial Dispute No. 1 of 1993

In the matter of dispute :

BETWEEN

Shri Rajesh Kumar Agnihotri,  
through Shri K. N. Soni,  
118/76, Kaushalpur,  
Kanpur-2080001.

AND

Post Master General  
Kanpur Dehat,  
The Mall Road,  
Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-40012/11/92-I.R.(D.U.) dated 28-12-92, has referred the following dispute for adjudication to this Tribunal-

Whether the action of the management of Post Master General, Kanpur Dehat in terminating the services of Shri Rajesh

2. The concerned workman Rajesh Kumar Agnihotri in his claim statement has alleged that opposite party Post Master, Kanpur Dehat had appointed him as Postman, on 14-6-90 and he worked upto 3-7-91 continuously thereafter he was retrenched without observing provisions of Section 25-F of I.D. Act.

3. The opposite party has filed the reply in which it is alleged that one Yogendra Kumar Agnihotri was working as E.D.B.O. Birhun. He had given the concerned workman as his substitute for the period he remained absent. In other words he worked in place of Yogendra Kumar Agnihotri. When Yogendra Kumar Agnihotri joined his services the services of the concerned workman came to an end automatically.

4. Concerned workman has filed rejoinder in which nothing new has been said.

5. In support of his claim, the concerned workman has given his evidence on oath. Further there is copy of certificate to show that the concerned workman has worked for the period given in the claim statement.

6. The opposite party has not cared to adduce any evidence. Further the concerned workman was also not cross examined as the opposite party has failed to put in appearance subsequently.

7. Thus from the above unrebutted evidence, it is fully established that the concerned workman has worked from 14-5-96 to 3-7-91 and thereby he had completed 240 days in a calendar year.

8. Admittedly his services have been brought to an end after Yogendra Kumar Agnihotri joined the services. In my opinion even if one work as a substitute in place of some one and completed 240 days, there is need for compliance of Section 25-F I.D. Act, when his services are terminated. Admittedly this provision has not been complied with, hence the termination is bad in law.

9. However, the concerned workman will not be entitled for reinstatement, instead in lieu of reinstatement he will be entitled for Rs. 5000 as compensation I award accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 10 जून, 1996

का.आ. 1937 .—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीपी डब्ल्यू डी के प्रबन्धतंत्र के संबद्ध नियोजकों

और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[सं. एन-42012/137/93-आई आर (डीयू)]

पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 10th June, 1996

S.O. 1937.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of C.P.W.D. and their workman, which was received by the Central Government on 31-5-96.

[No. L-42012/137/73-IR(DU)]

P. J. MICHAEL, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2. MUMBAI

#### PRESENT :

Shri S. B. Panse, Presiding Officer

Reference No. CGIT-2/56 of 1994

Employers in relation to the Management of  
C.P.W.D.

#### AND

Their Workmen

#### APPEARANCES :

For the Workmen—Mr. B.K. Prasad, Representative.

For the Employer—Mr. S. Subramanian &  
Mr. A. K. Jain Representative.

Mumbai, 2nd May, 1996

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-112012/137/93-IR(DU) dated 10/17-11-94 had referred to the following dispute for adjudication.

“Whether the action of the management of C.P.W.D. in ordering Mr. V. S. Rajan, Works Asstt. to super annuate w.e.f. 31-1-93 after attaining the age of 58 years is legal and justified? If not, what relief the concerned workman is entitled to?”.

2. The General Secretary of C.P.W.D. Mazdoor Union and authorised representative filed a statement of Claim for the worker Rajan. It is

averred that on 8-1-1955 Rajan was appointed as a work Mistri on work charged establishment of C.P.W. by the management. He was redesignated as works assistant on the regular classified establishment by the Executive Engineer, Bombay by its order dated 16-10-64. It is contended that after redesignation he continued to perform same and similar duties as he was earlier doing his work of Mistri on the work charged establishment.

3. It is averred that the duties of the work mistri/works assistant in the C.P.W.D. are preparation of estimates, measurements of levelling materials, theoretic work, survey work of work sites, submissions of building plans to the municipal and other local authorities and also to perform artisan work and advise and guide skilled/semi-skilled artisans.

4. It is contended that the work assistant category is “highly skilled” workman under the notification issued under the minimum wages Act of 1948.

5. In 1982 the controlling authority, that is the Ministry of Works and Housing Government of India, New Delhi with the concurrence of the Labour Ministry have included the employment of works assistant under the schedule employment as listed in the Minimum Wage Act of 1948 and according to the notification the workman was also getting overtime allowance under the Act being the workman.

6. The works assistants are appointed on promotion from unskilled or semiskilled categories of Mason, Fitter, Carpenter, Plumber and some are also directly recruited who are specialised in that particular trade over a period of ten years. The syllabus laid down for the trade test for the post of works assistant includes the work of Mason, Carpenter and black smiths.

7. V. S. Rajan's birth date as appeared on the record is 15-1-35. He being a highly skilled workman as envisaged in FR 56 B, he is entitled to be retired at the age of sixty years i.e. on 21st January, 1995. But he was intentionally made to retire on attaining the age of 58 years i.e. 31-1-93 under FR 56(A). He made a representation to the executive engineer but his representation was rejected. The union also raised a dispute.

8. The union contended that Rajan is a worker. The work of maintenance of a building and construction is covered under the minimum wages Act and “any Industry” within the meaning of section 2(i) of the Industrial Disputes Act of 1947. It is averred that Rajan being a workman who is covered under the definition of a highly skilled artisan is entitled to be retired at the age of sixty years and not fifty eight years as done by the management. It is averred that one & S.C. Chemical Works

assistant was retired on attaining the age of sixty years because he had opted to remain in the work charge establishment on the same terms and conditions applicable to V.S. Rajan, the workman doing the same and similar kind of work under the same management. It is averred that as per the arbitration award of 1988 between the management of C.P.W.D. and its workman, the works assistant is declared as a highly skilled artisan. For all these reasons the action of the management is illegal. It is therefore prayed that the order of retiring the workman on 31-1-93 to be quashed and he should be declared to be service till 1-1-1995. It is also prayed that all other benefits may be awarded to him.

9. The management resisted the claim by the written statement Exhibit-3. It is contended that the post of works assistant was brought on the Regular Classified Establishment as per the ministries order dated 10-9-62. This post which was borned on the work charged establishment was brought to Classified Regular establishment w.e.f. 1-4-58 under Group (C). So far as Rajan is concerned he was the works Mistry in the work charged establishment was brought under the regular classified establishments under regular group 'C', w.e.f. 1-4-62. It is averred that the employee in the work charge establishment his retirement age was sixty years. However, when the employee accepted the post of works assistants in the regular classified establishment he was taken in Group 'C' service G.O.I. in accordance with his scale of pay. Looking to the scale he has to be fitted in Group 'C' only.

10. The management pleaded that the employees who are eligible to come over to these regular establishments had an option given to remain in the work charged establishment if they prefer to do so vide letter dated 26-3-58. Rajan accepted his transfer in the regular establishment and is interested in Group 'C' service and did not exercise his option to continue to be in the work charged establishment. It is averred that Mistry by his letter dated 3-1-59 provided that the age of retirement in respect of those who are brought on the regular establishment would be according to the relief rules applicable to the regular establishment. That order provides that the provision applicable to the work charge establishments and the age of superannuation which is applicable to all employees of the workcharge establishment which is sixty years was not applicable to any member of WCE who are brought on the regular establishment. In view of this the employee was made to retire at the age of 58 years. However, for the purpose of drawing overtime allowances such an employee who had transfer from W.C.F. in regular establishment would be paid OTA similar to WCE. It is pleaded that as per the order dated 19-9-84

the payment of overtime allowances has to be regularised by the earlier instructions on the subject and should be paid only to those on regular classified establishment. In respect of the posts mentioned therein which includes the work assistants. It is averred that due to payment of overtime if should not be treated that the employee is the workman.

11. The management denied all other contentions of the employee which he took in the statement of claim. It is emphatically denied that he is entitled to retire at the age of 60 years and not at the age of 58 years. It is denied that FR 56 I (B) is applicable to the worker and not FR 56 I (A). It is denied that the employee is a workman. It is submitted that as per the Government of India's order the post is coming under the purview of Central Administrative Tribunal. It is submitted that for all these reasons the prayers of the employee may be rejected.

12. The issues that fall for my consideration and my findings thereon are as follows :—

| Issues  | Findings          |
|---|-------------------|
| 1. Whether the action of the management of CPWD in ordering Mr. Rajan, works assistant to superannuation w.e.f. 31-1-93 attaining the age of 58 years is legal and justified? | Yes.              |
| 2. If not, what relief the concerned workman is entitled?   | Does not survive. |

#### REASONS :

13. To bolster up the case Rajan examined himself at Exhibit-9, and produced the documents, at Exhibit-7 and Exhibit-8. As against that the management examined A.K. Jain, executive engineer (Exhibit-12) and produced different documents at Exhibit-6.

14. It is not in dispute that V. S. Rajan was initially appointed as works mistry w.e.f. 8-1-1995 on the work charged establishment of the Central Public Works Department of the Government of India in Bombay. It is not in dispute the post of works mistry was redesignated as a works assistant w.e.f. 1-4-62. Rajan was taken in the regular establishments with pensionary benefits. Jain affirmed that when the category was redesignated from work charged establishment to regular classified establishment the category as whole falling under class 3 officers of the Government of India which was subsequently recategorised as Group 'C' of the Fourth Pay Commission. Rajan denied this position. But it appears to be without any merit.

15. It can be seen that when there was a re-categorisation of the post the workman had the option to remain in work charged establishment, if he preferred to do so. The circular dated 26-3-58 was issued to that effect. The employee did not opt to remain in the work charged establishment. He accepted the transfer.

16. Jain affirmed that after the Fourth Pay Commission the scale of pay for the post of Rs. 1200-30-1440-E.B.-1800 comes under the regular establishment.

17. Rajan affirmed that even though his post was redesignated he remained to perform the same job. This position is not disputed by Jain. Rajan affirmed that he was classified as highly skilled workman as per the Minimum Wages Act of 1948, and was getting overtime. But as per the version of Jain, Rajan was given overtime at double rate not because of that Minimum Wages Act was applicable to him but he was paid it as per the instructions of Director General of Works CPWD. This appears to be the correct position on the basis of documents which are produced alongwith Ex.-'6'.

18. Jain affirmed that when the workman was grouped on the regular establishment in Group 'C' as age of superannuation automatically becomes 58 years only. As per recommendations of the Fourth Pay Commission any post the maximum of the scale of pay is more than Rs. 1200 per month, the post has to be classified as Group 'C'. The maximum of the pay scale of the works assistant is Rs. 1,800. It is classified as Group 'C'. Even though this position is tried to be disputed by Rajan there is no merit in it.

19. It is pertinent to note that when the worker was brought on the regular establishment the option was available to him to continue as a works charge establishment and retire at the age of sixty years. But the workman choses to remain in a regular establishment. He took all benefits of that establishment and now has come forward with a case that he being a skilled worker he falls in the category whereby FR 56(B) is applicable. It is case that he being a skilled worker he falls in the worker did not exercise the option of continuing in the work charged establishment during the year 1964 the benefits enjoyed by the work charge staff under FR 56(B) cannot be given to him. It can be seen that the employee had produced alongwith written arguments copies of the judgements of the Central Administrative Tribunals to show that he is a skilled worker and therefore he is liable to be retired at the age of sixty years and not 58 years. After perusal of these judgements it can be seen that the facts of those cases are quite different than the facts before me. It can be further seen that there was no question of putting the option in

those cases, here here was a remedy open to the employee to do so. As he did not put the option now he cannot claim the benefit. The ratio in these authorities has no application.

20. Rajan placed reliance on Central Bank of India V. P.S. Rajagopal 1964(3) SCR 140. That was a case wherein the Lordships have observed nomenclature of the workman has no meaning. What is to be seen is the duties performed by him. It is argued that Rajan was initially appointed as a works mistry and after the redesignation he continued to do the same job. Therefore, he remains to be the workman. It is further submitted that as per the definition the highly skilled workman under the Industrial Disputes Act of 1947. Rajan has to be said to be a skilled worker and therefore he is entitled to the benefits as provided under FR 56(B). I am not inclined to accept it, for the reasons stated above.

21. It can be stated that as Rajan had not opted the option, the principle laid down by the principle bench of the Central Administrative Tribunal in OA No. 399-86 cannot be made applicable to him. It is tried to argue on behalf of the worker than the evidence on the record clearly suggested that he is highly skilled worker. As this is so he is entitled to be retired at the age of sixty. From the testimony of Jain it does not reveal that he had given admissions as submitted by the worker. This case appears to be the case where the employee wants to take double advantage which cannot be permitted. In the result I record my findings on the issues accordingly and pass the following order:—

#### ORDER

1. The action of the management of CPWD in ordering Mr. V. S. Rajan, works assistant to superannuate with effect from 31-1-93 after attaining the age of 58 years is legal and justified.
2. No order as to costs.

S. B. PANSE, Presiding Officer

नई दिल्ली, 10 जून, 1996

का. प्र. 1938 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डाक के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अन्तर्ग्रह में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 मुम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 31-5-96 को प्राप्त हुआ था।

[संख्या एल-40011/12/93-ग्राई आर (डीय)]

पी.जे. माईकल, ईस्क अधिकारी

New Delhi, the 10th June, 1996

S.O. 1938.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Post and their workman, which was received by the Central Government on 31-5-96.

[No. L-40011/12/93-IR(DU)]

P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 2.  
MUMBAI

PRESENT : SHRI S. B. PANSE  
PRESIDING OFFICER

REFERENCE NO. CGIT 2/61 of 1994

EMPLOYERS IN RELATION TO THE  
MANAGEMENT OF POSTAL DEPARTMENT  
SATARA

AND

Their Workmen

APPEARANCES :

For the workman : R. G. Phansalkar  
Representative.

For the Employer : Mr. P. M. Pradhan  
Advocate.

Mumbai, dated 6th May, 1996

AWARD

The Government of India, Ministry of Labour by its order No. L-40011/12/93/IR-DU dated 17-11-94 had referred to the following Dispute or Adjudication.

“Whether the action of the Senior Superintendent of post officers, Satara Division, Satara, Pin-415 001, in verbally stopping from services w.e.f. to Shri A. A. Londhe, Ex-EDA Shirmabe Branch Post office, Satara Pin-415 001 is justified or not ?

If not to what relief are the workman entitled to ?”

2. The Branch Secretary of the Bharatiya Postal employees union class-3, Satara Branch had filed a statement of claim for the worker A. A. Londhe. It is contended that Avinash Arvinda Londhe was appointed as Extra Departmental Delivery Agency (hereinafter called as EDDA) from 2nd July,

1990. The Sub-divisional Inspector of post officers Satara (E) sub-division terminated his services w.e.f. 21/9/91 without following the provisions of section 25F of the Industrial Disputes Act of 1947. This action of the management is illegal and void.

3. It is contended by the union that the worker gave an application for reinstatement on 25-9-91. Later on he was appointed to work as EDDA w.e.f. 6-9-93 by the order dated 12-1-94. It is submitted that this action of the management itself goes to show that their earlier actions was void. He therefore, claims wages for the period from 21-9-91 to 6-11-93 with other reliefs.

4. The management resisted the claim by the written statement Exhibit-4. It is contended that the person who filed the Statement of Claim has not authority to do so. It is averred that A. A. Londhe is not a workman as contemplated under the Industrial Disputes Act and the Tribunal has no jurisdiction. It is averred that one R. S. Mane was working as EDDA at Shirmabe Branch post office under Koregoan sub-post office in Satara postal division and was proceeded on Extra Ordinary Leave on the ground of ill health w.e.f. 1-11-90. Provided Londhe as leave substitute during his leave period on the terms of the security of a permanent incumbent proceeding on extra ordinary leave as contemplated by the rule 5 of the Extra Departmental agent (conduct of service) rules of 1964. As per the rules allowances for the said period is payable to the leave substitute deducting from the amount of the allowances of a permanent incumbent. Naturally he is not entitled to receive pay for the leave period of the said leave substitute again for any right whatsoever in respect of the said post.

5. It is averred that Mane unfortunately did. His widow gave an application to get an employment on compassionate ground. Ultimately she refused to work, but as per the rules, night watchman by name Shaik was automatically came to be appointed in place of Mane. Naturally Londhe's application could not be considered. Subsequently Shaikh was removed from the service due to misappropriation committed by him, and Londhe was given that post. It is averred that by such an appointment Londhe cannot claim the arrears of wages as he claimed. In fact his appointment was not as of his right. It is averred that there is no merit in the reference and it may be answered in favour of the management. It is submitted that the employee is not entitled to any of the reliefs as claimed.

6. The union filed rejoinder at Exhibit-6. It reiterated the claim which he made in the statement of claim.

7. The issues that fall for my consideration and my findings thereon are as follows:—

## Issues

1. Whether the court has jurisdiction to decide the reference ?

Findings  
No.

2. Whether the action of the management, Sub-Divisional Inspector of Posts Offices, Satara in verbally suspending from service of A. A. Londhe Extra Departmental Delivery agent of Shirembe Branch post office, Satara is justified or not ?

Does not survive,  
If survives, The  
action is justified.

3. If not, what relief the workman is entitled to ?

Does not survive.

## REASONS

8. Mr. Pradhan, the Learned Advocate for the management submitted that the Tribunal has no jurisdiction to decide the matter in view of the judgement delivered by the Supreme Court in Sub-Divisional Inspector of Posts V/s. Theyyam Joseph 1996(2) Supreme 487. It is not in dispute that the employee Londhe claims to be EDDA. He had claimed the dues for the period between 21-9-91 to 6-11-93 when he was not working. According to him he was wrongly terminated and was jobless within that period.

9. In Theyyam Joseph's case his Lordships have observed "India as a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under rule of law. The Welfare measures partake the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the State. Directive principles of State policy enjoin on the State diverse duties under Part IV of the Constitution and the performance of the duties are constitutional functions. One of the duty is of the State is to provide telecommunication service to the general public and an amenity, and so is one essential part of the Sovereign functions of the State as a Welfare State. It is not, therefore, an industry." Naturally the post cannot be said to be an industry. As that is so Londhe cannot be said to be a worker. The result is that the dispute referred to the Tribunal cannot be said to be an Industrial Dispute. In the result Tribunal has no jurisdiction.

10. A. A. Londhe (Exhibit-9) the worker in his cross-examination admits the position that he joined the services on 1-11-90. Mane was working in the place where he now works. He fell sick in 1990. He also admits that he started working

when Mane fell sick and on Mane's suggestion he started working. He also does not dispute the position that no postal officer asked him to work in place of Mane. Naturally there was no appointment letter from the postal department for him to work in that place. In the life time of Mane his wife was staying at Shirambe but after his death she went to Pune. Mukund Keskar (Exhibit-12) the witness for the management affirmed that she made the application for getting appointment on compassionate ground but subsequently she did not appear. That itself goes to show that the case of the employee cannot be considered, as Widow of Mane was to be considered on compassionate ground. Later on one Shaikh has to be appointed as per the postal departmental rules as he was night watchman. Under such circumstances I do not find any fault with the management for not allotting or posting the employee in the place of deceased Mane. Naturally the claim of Londhe for the wages for the period between 21-9-91 to 6-11-93 is not justified.

11. It appears to be, not in dispute that Shaikh who was appointed in place of Mane was removed from the service due to misappropriation committed by him.

Therefore, Londhe can be provided with that post of EDDA. The case then tried to be made out by Londhe that his appointment itself goes to show that the earlier action of the management is justified is without any merit. For all these reasons I record my findings on the issues accordingly and pass the following order :

## ORDER

1. The Tribunal has no jurisdiction to adjudicate the dispute.

S. B. PANSE, Presiding Officer

नई दिल्ली, 11 जून, 1996

का.आ. 1939 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई नं.-1 के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 5-6-96 को प्राप्त हुआ था।

[संख्या एल-41012013/92-आई आर बी-1]]

पी.जे. माईकल, डेस्क अधिकारी

New Delhi, the 11th June, 1996

S.O. 1939.—In pursuance of Section 11 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award

of the Central Government Industrial Tribunal, Bombay No. 1 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on the 5-6-1996.

[No. L-41012/13/92-IRBI]  
P. J. MICHAEL, Desk Officer  
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI  
PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/62 of 1992

PARTIES :

Employers in relation to the management of  
Central Railway, Bombay V.T.,  
Bombay.

AND

Their workmen.

APPEARANCES :

For the Management : Shri Vyas, Advocate.

For the Workman : Shri Pradhan, Advocate.

INDUSTRY : Railways STATE : Maharashtra  
Mumbai, the 12th April, 1996

### AWARD

The appropriate Government has referred the following dispute for adjudication to the Tribunal :

"Whether the action of the management of Central Railway, Bombay V.T., Bombay in terminating the services of Sri S. P. Damagu, Casual Painter, CTI (SION) with effect from 10-07-1986 is just, proper and legal ? If not to what relief the workman is entitled to ?"

2 Briefly stated, the case of the workman is that he was appointed as a Casual Painter in 1978 and he worked under the respondent for the following periods :

- (i) 24-3-78 to 18-6-78.
- (ii) 21-6-78 to 18-8-78.
- (iii) 25-9-78 to 18-1-85.
- (iv) 26-8-85 to 29-7-86.

3. The case of the workman is that his services were terminated illegally and wrongfully without complying with the provisions of Sec. 25F of the Industrial Disputes Act.

4. His further say is that he should have been sent for medical examination after putting in 120 days of service but that was not done and he was sent for medical examination after 4 years at which he was found unfit and the services were terminated.

5. Upon such pleas, the workman prayed that termination of his service w.e.f. 30-7-86 be declared illegal and wrongful, he be reinstated in service with back wages and continuity of service and all other benefits.

6. The respondent employer has opposed the claim. It was admitted that the workman entered service as a Casual Workman on 24-3-78. It was admitted that workman served the employer for the periods 14-3-78 to 18-6-78; 21-6-78 to 18-8-78; 25-9-78 to 18-1-85 and 29-9-78 to 18-1-85. It was stated that the workman left the job on 19-1-85 and was re-engaged on 26-8-85 and remained in job upto 5-8-86. It was alleged that the workman absented himself 6-8-86. Efforts were made to explore possibility of re-engaging him but he was found medically unfit and hence it was not feasible to continue on the job. It was asserted that since the workman absented himself from 6-8-86, there was no occasion for terminating his services and complying with the provisions of Section 25F of the I.D. Act. It was pleaded that the workman was not entitled to any relief.

7. It appears that on 21-2-84 and without going into merits of this case, my learned predecessor recorded an order to the effect "both the counsel are agreeable to a fresh reference to the concerned medical officer for fresh medical examination and thereafter, it found fit for being re-employed, in any of the category, to take him back in appropriate category in which he is found medically fit."

8. On 30-4-94, the learned counsel for the employer stated that reappointment on being found medically fit could be considered only if he did not claim back wages. This offer was not acceptable to the workman and the matter was directed to be posted for hearing on merits.

9. The matter came up before me for the first time on 22-8-95 when the learned counsel for management sought time to lead evidence on 31-8-95, my attention was drawn to the order dated 21-2-94 passed by my predecessor. However, my attention was not drawn to what had transpired on 30-4-94 and I directed the management to apprise the Tribunal about medical examination of the workman. On 17-10-85, Mr. Vyas for management placed a xerox copy of the report of medical examination and as such I directed the matter to be heard on merits.

10. Since the workman had already closed his evidence, the case was posted for evidence of the management. On 08-11-95 both the parties prayed

On that day the authorised representative of the railway made a statement that railway would not adduce any evidence. Thus the hard fact remains that the document filed by the railway have not been proved.

9. There is unrebutted affidavit of Suresh Chandra in support of the version of the workmen

they have completed 240 days in a calendar year before their termination. Hence, I accept it, and hold that there is breach of section 25F of I.D. Act. Hence they will be entitled for reinstatement with back wages from the date of reference.

B. K. SRIVASTAVA, Presiding Officer

of the Central Government Industrial Tribunal, Bombay No. 1 as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on the 5-6-1996.

[No. L-41012/13/92-IRBI]

P. J. MICHAEL, Desk Officer

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. 1, MUMBAI  
PRESENT :

Shri Justice R. S. Verma, Presiding Officer.

Reference No. CGIT-1/62 of 1992

### PARTIES :

Employers in relation to the management of  
Central Railway, Bombay V.T.,  
Bombay.

AND

Their workmen.

### APPEARANCES :

For the Management : Shri Vyas, Advocate.

For the Workman : Shri Pradhan, Advocate.

INDUSTRY : Railways STATE : Maharashtra

Mumbai, the 12th April, 1996

### AWARD

The appropriate Government has referred the following dispute for adjudication to the Tribunal :

"Whether the action of the management of Central Railway, Bombay V.T., Bombay in terminating the services of Sri S. P. Damagu, Casual Painter, CTI (SION) with effect from 10-07-1986 is just, proper and legal ? If not to what relief the workman is entitled to ?"

2 Briefly stated, the case of the workman is that he was appointed as a Casual Painter in 1978 and he worked under the respondent for the following periods :

- (i) 24-3-78 to 18-6-78.
- (ii) 21-6-78 to 18-8-78.
- (iii) 25-9-78 to 18-1-85.
- (iv) 26-8-85 to 29-7-86.

3. The case of the workman is that his services were terminated illegally and wrongfully without complying with the provisions of Sec. 25F of the Industrial Disputes Act.

4. His further say is that he should have been sent for medical examination after putting in 120 days of service but that was not done and he was sent for medical examination after 4 years at which he was found unfit and the services were terminated.

5. Upon such pleas, the workman prayed that termination of his service w.e.f. 30-7-86 be declared illegal and wrongful, he be reinstated in service with back wages and continuity of service and all other benefits.

6. The respondent employer has opposed the claim. It was admitted that the workman entered service as a Casual Workman on 24-3-78. It was admitted that workman served the employer for the periods 14-3-78 to 18-6-78; 21-6-78 to 18-8-78; 25-9-78 to 18-1-85 and 29-9-78 to 18-1-85. It was stated that the workman left the job on 19-1-85 and was re-engaged on 26-8-85 and remained in job upto 5-8-86. It was alleged that the workman absented himself 6-8-86. Efforts were made to explore possibility of re-engaging him but he was found medically unfit and hence it was not feasible to continue on the job. It was asserted that since the workman absented himself from 6-8-86, there was no occasion for terminating his services and complying with the provisions of Section 25F of the I.D. Act. It was pleaded that the workman was not entitled to any relief.

7. It appears that on 21-2-84 and without going into merits of this case, my learned predecessor recorded an order to the effect "both the counsel are agreeable to a fresh reference to the concerned medical officer for fresh medical examination and thereafter, it found fit for being re-employed, in any of the category, to take him back in appropriate category in which he is found medically fit."

8. On 30-4-94, the learned counsel for the employer stated that reappointment on being found medically fit could be considered only if he did not claim back wages. This offer was not acceptable to the workman and the matter was directed to be posted for hearing on merits.

9. The matter came up before me for the first time on 22-8-95 when the learned counsel for management sought time to lead evidence on 31-8-95, my attention was drawn to the order dated 21-2-94 passed by my predecessor. However, my attention was not drawn to what had transpired on 30-4-94 and I directed the management to apprise the Tribunal about medical examination of the workman. On 17-10-85, Mr. Vyas for management placed a xerox copy of the report of medical examination and as such I directed the matter to be heard on merits.

10. Since the workman had already closed his evidence, the case was posted for evidence of the management. On 08-11-95 both the parties prayed

for time. Eventually, the witness of management was cross-examined on 2-2-96.

a calendar year preceding the date of his termination i.e. 29-7-86."

11. The matter was finally heard on 3-2-96 when I reserved the award.

For this statement, it can be safely concluded that the workman served till 29-7-86. This also belies the claim of the management that workman worked upto 5-8-86 and absented himself from 6-8-86 and that his services were not terminated.

12. In this case, the fact that the workman remained in the employment of the management from 24-3-78 to 18-1-85 with some intermittent breaks is not in dispute. However, it is seriously in dispute if the workman worked under the management for the period 26-8-85 to 29-7-86 and his services were abruptly terminated on 29-7-86. The case of the management is that the workman served under them on reappointment from 26-8-85 to 5-8-86 and absented himself from 6-8-86. I have to see which of the two rival versions is true.

13. The management's claim that the workman voluntarily left his job, on 29-1-85 and was re-appointed on 26-8-85 is evident from workman's averment in para 3 of the written statement of claim which reads as follows :—

"The workman states that he worked with respondents for the following period :

24-3-1978 to 18-6-1978, 21-6-1978 to 18-8-1978, 25-9-1978 to 18-1-1985, 26-8-1985 to 29-7-1986."

He does not explain his long absence from 19-1-1985 to 25-8-1985. He was a casual worker. He does not claim that he was on authorised leave from 19-1-85 to 25-8-85. This is not his case that this long break was artificially caused due to victimisation. His statement of claim and his sworn testimony are altogether silent on his aspect of the matter, though in cross-examination he denies the suggestion that he was reappointed on 26-8-85.

14. As against this, there is categorical statement of Management witness P. G. Melkar that the workman was re-engaged on 26-8-86. In cross-examination, he has added that this statement is based on record and he has no personal knowledge in the matter. I have no reason to doubt this statement and it is in accord with the averment of the workman made in para 3 of the written statement of claim which shows that his last spell of service commenced on 26-8-86.

15. Now, the next question is if the workman had served from 26-8-85 till 29-7-86 as claimed by the workman or upto 5-8-86. On this point, the cross-examination of Mr. Pradhan contains a very valuable admission, which completely demolishes the case of the management. He says :

"This is correct that the workman had served for a period of more than 240 days in

16. The stand taken by the management is that since the workman could not qualify medically, he could not have been regularised and hence his services were terminated and it was not necessary to comply with the provisions of Section 25F of the Industrial Disputes Act. In my opinion, the management was within its right not to regularise the workman when he failed to qualify at the medical test. But this did not mean that he was not entitled to carry on in his status as a casual workman till proper termination and his services could have been terminated without complying with the provisions of Section 25F of the I.D. Act. Admittedly, since the workman had failed to qualify at the medical test, he could not be regularised. But this does not and can not mean that his casual services also automatically came to an end. To achieve this object, the employer could very well terminate his appointment but only after complying with the provisions of Section 25F of the I.D. Act, and not without resorting the provisions of the said section.

17. Hence, notwithstanding the fact that the workman could not qualify medically and was not entitled for regularisation, termination of his casual service w.e.f. 29-7-86, without complying with provisions of Section 25F of the I.D. Act is bad and unlawful and he shall be deemed to continue in the job as a casual workman w.e.f. 29-7-86 and is also entitled to backwages. However, on this basis, he is not entitled to claim regularisation and absorption. It is clarified that the management may still terminate the casual appointment of the workman but only in accordance with the provisions of Section 25F of the I.D. Act and not otherwise. In the circumstances of the case, employer shall pay costs of these proceedings which are assessed at Rs. 200. Award is made accordingly. The same be notified in accordance with law.

R. S. VERMA, Presiding Officer

नई दिल्ली, 12 जून, 1996

का.आ. 1940 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मध्य रेलवे के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के

पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 5-6-96 को प्राप्त हुआ था।

[संख्या-एन 41011/11/88-आई आर बी-1]  
पी. जे. माईकल, डेस्क अधिकारी

New Delhi, the 12th June, 1996

S.O. 1940.—In pursuance of Section II of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway and their workman, which was received by the Central Government on the 5-6-1996.

[No. L-41011/11/88-IRRI]

P. J. MICHAEL, Desk Officer  
ANNEXURE

BEFORE SRI B.K. SRIVASTAVA PRESIDING  
OFFICER CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT PANDU NAGAR, DEOKI  
PALACE ROAD KANPUR

Industrial Dispute No. 265 of 1989

In the matter of dispute between :

Secretary,  
Rashtriva Mazdoor Congress U.P.,  
2/236 Namneir Agra.

AND

Divisional Railway Manager,  
Central Railway Jhansi.

APPEARANCE :

Surender Singh for the Union : None for the Management.

#### AWARD

1. Central Government Ministry of Labour, vide its notification No. L-41011/11/88-D-2 (B) dated 24th October, 1989, has referred the following dispute for adjudication to this Tribunal—

Whether the Divisional Mechanical Engineer, Central Railway Jhansi was justified in terminating the services of Sri Krishna Kumar and 24 others as per the list enclosed w.e.f. 24-12-86? If not, what relief the workman concerned were entitled to?

2. In this reference there are 25 workmen headed by Krishna Kumar, their names are, S/Sri Ramesh S/o Balkhandi, Suresh son of Laxman Lal, Jagdish Prasad son of Motilal, Narain Das son of Bhagwan Das, Amar Singh son of Manik Singh, Madan Mohan son of Kailash Chand, Pushpendra

Kumar son of Budhram, Om Prakash son of Kheo Singh, Ramjilal son of Tej Singh, Girtaj son of Sheocharan, Jitendra Pal Singh son of Huralal, Swaran Kumar son of Chhedi, Dhan Singh son of Ghisa Ram, Murari Lal son of Ajab Singh, Suresh son of Raja Ram, Ram Prasad son of Siya Ram, Ashok Kumar S/o Jyant Singh, Jawahar Singh son of Narain Singh, Kisan Kumar son of J.P. Singh, Nanak Chand son of Sheo Charan, Jangbahadur Singh son of Chatur Singh, Nawab Singh son of Babu Lal, Ramesh Chand, Ashok Kumar son of Jagat Singh, and Pradeep Kumar Raghav.

3. In their claim statement they have alleged that they were appointed as casual worker some times from March to June 1983, the details of which have been given in the reference order. Later on they were given status of M.R.C.L. In April 1986, they made a request for regularisation as they were doing work of permanent nature. The management brought their services to an end 24-12-1986 without compliance of section 25 I.D. Act, hence, their termination is bad in law.

4. In support of his claim statement affidavit of Suresh Chand have been filed.

5. The opposite party has filed reply in which it was alleged that all the workmen were appointed in place of some one who had proceeded on leave or there was permanent vacancies. In other words they were not appointed on clear vacancies. In 1984, an order was issued by higher authorities that those MRCL who were engaged after 30-4-78 should be ceased. Accordingly the services of the concerned workmen were brought to an end. It is noteworthy that the management have not specifically denied that the concerned workmen had completed 240 days.

6. In support of their version the concerned workmen had filed copy of award and further copies of various termination orders to show that the services were brought to an end because of closure of depot.

7. Workmen had filed rejoinder in which new factual pleas raised in the claim statement were denied.

8. The management had filed 16 papers. On 12-7-95, the case was fixed for evidence of workmen. On that date the authorised representative of opposite party Central Railway was absent. Hence the authorised representative of the concerned workmen gave statement that he rely upon the affidavit which has been filed in support of claim statement. 22-8-95 was fixed for evidence of management. On the request authorised representative of opposite party case was adjourned to 16-11-95.

On that day the authorised representative of the railway made a statement that railway would not adduce any evidence. Thus the hard fact remains that the document filed by the railway have not been proved.

9. There is unrebutted affidavit of Suresh Chandra in support of the version of the workmen

they have completed 240 days in a calender year before their termination. Hence, I accept it, and hold that there is breach of section 25F of I.D. Act. Hence they will be entitled for reinstatement with back wages from the date of reference.

B. K. SRIVASTAVA, Presiding Officer